Consultation Response

Targeted Consultation on the Competitiveness of the EU Banking Sector

17 April 2026

The Association for Financial Markets in Europe (AFME) welcomes the opportunity to comment on the European Commission's Targeted Consultation on the Competitiveness of the EU Banking Sector. The Association for Financial Markets in Europe (AFME) is the voice of the leading banks in Europe's financial markets, providing expertise across a broad range of regulatory and capital markets issues. We represent over 150 leading global and European banks and other significant market players. Our members play a vital role in Europe's financial ecosystem, underwriting around 90% of European corporate and sovereign debt, and 85% of European listed equity capital issuances. Importantly, AFME members are market makers, providing liquidity, which is essential for ensuring financial markets can function efficiently. We also represent law firms and other associate members which advise market participants and support AFME's legal and regulatory initiatives.

AFME is registered on the EU Transparency Register, registration number 65110063986-76. We summarise below our high-level response to the consultation, which is followed by answers to the individual questions raised.

Contents

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Introduction

Competitiveness, in AFME's view, is the capacity of banks to act as effective lenders and market intermediaries which source capital, provide liquidity, make markets and offer risk management solutions in support corporates and investors, whether institutional or retail, and governments. A competitive banking sector is not an end in itself, but a means to ensure that capital is efficiently allocated - including to productive investments-, that risks are appropriately managed, and markets continue to function smoothly across economic cycles, thus supporting the EU's broader strategic objectives, including economic growth, innovation, the green and digital transitions, as well as long-term investment in infrastructure and strategic industries.

EU policymakers can support the competitiveness of the banking system by **finalising the Banking Union, creating a single market for banking where capital and liquidity can flow freely within EU banking groups.** The ongoing impasse in this area has unfortunately led to an unnecessary "regulatory race to the top" whereby EU/Banking Union ('BU') and Member State authorities **retain overlapping mandates** and do not defer to each other. This should be addressed as a matter of urgency as it results in unnecessarily duplicative requirements for banks, acts as a drag on their ability to scale within the EU and stifles their competitiveness. This has particularly acute consequences in **those areas where scale matters most, such as banks' capital market activities**. For the EU to meet its investment needs in coming years, it will be critical that it considers the competitiveness of its banking system in terms of banks' ability to provide direct lending as well as capital market solutions. This is recognised in the Commission's Savings & Investment Union (SIU) strategy at a high level and now needs to be put into practice.

Finalising the Banking Union should also **facilitate simplification of the horizontal and vertical complexity which exists across EU capital stacks.** Removal of overlapping requirements and greater alignment with international standards on its own can free up significant amounts of capital which can be used to support lending and capital market activities. Where capital is freed up and the cost of equity falls, banks will be better able to price competitively, widen the set of bankable projects, and allocate balance sheet capacity to productive investment, including infrastructure and corporate lending.

A competitive banking ecosystem also implies that EU institutions can operate on an equal footing with their global peers. Any misalignment between the EU and other major jurisdictions in the implementation of international standards could potentially impact banks' ability to support the strategic objectives referred to above and should be avoided. **AFME therefore considers it essential that international standards such as Basel III are applied in a manner that delivers equivalent outcomes across jurisdictions.** This is necessary to ensure a global level playing field while also reflecting Europe's characteristics, including the comparative greater importance of bank funding for EU corporates compared to other jurisdictions while the EU continues to promote the development of market-based funding through the Savings & Investment Union.

In-depth comparison of the regulatory and supervisory frameworks across key international jurisdictions will therefore be an essential step in assessing their role and impact on European banking competitiveness. This analysis should take account of relative structural market differences and business models, as well as the interplay of micro and macro buffers to which EU banks are subject. Further, we note that in the course of this consultation

period the US has published its proposed version of its Basel III endgame, we are in the process of assessing this and, should it be necessary, may provide further input at a later date to indicate key areas of comparison we would like the Commission to consider in its final report.

Where differences are identified, **the Commission should consider addressing these in the near term in an EU context, including via level 1 and other changes where necessary**, while **also seeking to have them readdressed as a priority at international level to maintain a consistent global approach** to prudential standards when they are part of the Basel Pillar 1 framework. If regulators and supervisors are genuinely committed to addressing market fragmentation and ensuring that internationally active banks can operate on the basis of common, robust standards, then ongoing internationally aligned implementation of Basel III and other globally agreed standards must be the cornerstone of that effort.

We also think that policymakers must consider whether the **Lamfalussy process can be streamlined** to produce more efficient and consistent regulatory outcomes, with a system that can act more nimbly when needed. The current complexity, rigidity and inconsistent sequencing of the EU financial services rule making has become, in and of itself, a competitive drag for banks operating in the EU compared to those in single jurisdictions. This is notably why we think that, absent other changes, **competitiveness should be more clearly anchored within all EU supervisory and regulatory mandates, alongside financial stability objectives.**

More generally, the EU's approach to financial rulemaking would benefit from a renewed focus on proportionality, coherence, and cumulative impact, ensuring that policy objectives of financial stability are achieved without unnecessarily constraining the capacity of the banking sector to support growth and investment. Combined with this, we think that there is **fundamental need to consider how and why the ECB (SSM) tends to act in certain situations as a quasi-regulator and whether its current mandate is fit for purpose**, allowing for effective challenge and public accountability. We welcome the ECB's recent efforts to clarify how it intends to take a more risk-based approach to supervision but note that our members have also not yet seen this translate into a tangible difference in practice.

As AFME, our objective is to support a **strong, competitive, and well capitalised European banking sector that can fund the economy effectively.** Open, competitive, and resilient financial systems are those that can thrive by contributing to stability through risk diversification and to the benefit of their clients and the economies which these underpin. Regulatory fragmentation away from robust, global standard undermines these benefits. Our message is therefore not about deregulation; **it is about modernising and simplifying the regulatory environment so that European banks can remain globally competitive, deliver on Europe's strategic investment needs, and continue to serve households and businesses effectively.**

Within this context, the present consultation and forthcoming report by the European Commission on the competitiveness of the sector represents a unique opportunity to reassess the overall level of structural conservatism, stemming from different sources, embedded in the EU prudential framework. A framework in which capital requirements are more closely aligned with actual risk would enable banks to intermediate more efficiently across banking and capital markets**.** Greater alignment with international practice would reduce costs for internationally active firms and support a broader range of financing, underwriting, and market making activities. A streamlined number of intervening regulatory and supervisory bodies working in tandem towards common objectives would further reduce costs and improve competitiveness of those operating in the EU.

Finally, there is a clear urgency to act. The March 2026 European Council conclusions explicitly called on the Commission to propose, by summer 2026, targeted amendments to the prudential framework to enhance the banking sector's capacity to finance the European economy, while safeguarding financial stability and fully preserving a global level playing field. **In this context, the Commission's intention to present a report on the competitiveness of the banking sector should be followed, as a matter of priority, by concrete legislative proposals in its immediate aftermath.** Timely and targeted action will be essential to ensure

that Europe's banking sector can play its full role in supporting competitiveness, resilience, and long-term prosperity.

Section 1 – Banking competitiveness in the EU and globally

Contribution of the banking sector to the EU economy

1. **How is the banking sector currently supporting economic growth in the EU, and to what extent (for example, by providing loans to households and businesses, supporting innovative sectors, and helping channel investments into capital markets (including for retail investors))? How could banks do more to boost productivity and economic growth, thereby supporting the priorities of the EU and accelerating the green, digital and social transitions? Please give concrete examples and evidence.**

The EU banking sector is at the centre of financing in Europe, supporting growth through lending, capital market access and intermediation, and the mobilisation of household savings toward productive investment.

European banks provide the dominant share of external financing to the real economy. Outstanding EU bank loans to households and non-financial corporations amount to approximately €14 trillion in 2025, equivalent to c80% of EU GDP. Of this, €8 trillion are loans to households, primarily mortgages and consumer credit, supporting housing acquisition and consumption. €6 trillion are loans to non-financial corporations, financing working capital, growth, investment, and job creation.

Banks are particularly critical for SMEs, which represent 99.8% of EU firms and over 65% of employment. Banks provide roughly €1.5 trillion in loans to SMEs[1], which typically have limited or no access to bond, equity markets, and very limited funding from private sources like venture capital. AFME data indicates that only 3.5% of the annual flow of new external financing to SMEs comes from risk capital (venture capital, angel investing, business angel, and crowdfunding), with the remaining 96.5% sourced from bank lending.

Beyond balance-sheet lending, banks play a central intermediation role in EU capital markets. As lead underwriters and arrangers, banks facilitated €87bn in EU equity issuance for listed companies, including IPOs and secondary offerings in 2025; €436bn in corporate bond issuance in 2025, enabling longer-term investment financing. They also facilitated close to €3.2 trillion annually in new EU sovereign debt issuance[2], supporting public investment, liquidity and fiscal stability through their primary dealership activities across Member States and have also supported as primary dealers the origination of the stock of €600bn in EU-level debt issuance by the EU Commission, including NextGenerationEU bonds, which has been crucial for financing major EU priorities and facilitating the post-pandemic recovery for the EU. Additionally, banks act as lead arrangers of mergers and acquisitions of EU companies, which totalled €348bn in deal value in 2025.

Banks also ensure liquidity, price discovery and risk management across equity, fixed-income markets; commodities and energy markets; FX; Carbon markets; and derivatives to hedge interest-rate and various other financial risks.

Banks operate crucial services performed subsequent to the execution of a trade (post-trade), facilitating the movement of capital cross-border within the EU and between the EU and third

[1] Estimate based on the proportion of SME new loan origination relative to total corporate lending (c25%) according to ECB data.
[2] EUR 1.8tn in bonds, EUR 1.4tn in bills in 2025FY

countries. These services include access to Central Counterparties (CCPs); acting as settlement agents including pre-settlement processes such as affirmation, confirmation, allocation and matching; and custodians and asset servicing as well as; and performing other related activities such as collateral management.

Banks are a key conduit between household savings and capital markets. Banks distribute UCITS, ETFs, pension products and sustainable investment funds, helping households to participate in capital markets, maximise their risk-adjusted returns while diversifying risk. The top 5 EU-headquartered asset managers by Assets under Management (AuM) are bank-affiliated[3], which enables scale, distribution and retail access to investment products.

Banks are major enablers of Europe's climate objectives. EU banks issued €134bn of green, social and sustainability bonds in 2025 only, with a use of proceeds approach which has funded green mortgages, renewable energy, and sustainable infrastructure. Banks also act as lead underwriters of EU green, social, and sustainable bond issuance, which reached €321bn in corporate and sovereign issuance in 2025 (or c10% of the EU's bond issuance). In carbon markets, banks are key intermediaries in the EU Emissions Trading System (EU ETS), the world's second-largest carbon market, with annual trading turnover of c€845bn in 2025, where investment firms and credit institutions continue to play an important role both on- and off-exchange markets, accounting for 63% of total trading volumes[4].

Banks have already expanded their digital capabilities, investing to adapt their operational capabilities for the digital transition, while also assisting the wider financial ecosystem to make use of new technologies. For example, facilitating the issuance of €1bn in EU DLT-based bonds[5], originating (and planning to originate) stablecoins to facilitate an alternative way for settlement of payments and securities, or by leveraging the use of DLT for repo transactions. Banks play also a role in financing innovation (development of innovation ecosystems, transformation of technological solutions into tested industrial projects.

While banks already contribute substantially, their impact could be amplified through policy and market reforms. This is particularly important in light of the strategic financing needs of the EU economy. Europe remains a predominantly bank-based financial system, and further efforts to complete SIU can facilitate the capacity of the banking system to support access to finance for corporates and to improve the savings profile of retail investors through capital markets. Around 75% of corporate debt financing in the EU comes from banks and 25% from capital markets. In contrast, the US relies on roughly 75% market-based financing and 25% bank financing.

2. **Is current credit demand adequately met by banks and how is the demand and the capacity to meet it likely to evolve in the medium and long-term? Are you observing barriers affecting bank financing in support of the economy, including in areas identified as political priorities by the EU or Member States? Please elaborate by providing evidence and identifying economic sectors where access to credit could be improved.**

At present, banks continue to meet the bulk of credit demand in the EU, reflecting the structural reality that Europe remains a predominantly bank financed economy. Bank lending is especially critical for SMEs, mid-caps, households, and sectors with limited direct access to capital markets. While aggregate lending volumes have remained resilient, this should not be interpreted as evidence that financing needs are fully or optimally met across the economy.

The ECB among others[6] have stated that there is no credit supply issue in the EU, i.e. financing demands are adequately met. However, as AFME has previously highlighted[7], observed lending volumes reflect not only demand but also banks' constrained participation choices,

[3] See IPE list: Amundi (CA), BNP Paribas AM, Natixis IM, DWS (DB)
[4] See 2025 EU ETS Year in Review: Turnover reaches all-time high | Veyt and https://climate.ec.europa.eu/document/download/ddc1b1de-652b-49ed-8f15-d9fa8badd39f_en?filename=com_2025_735_en.pdf
[5] See AFME DLT data report, 2025
[6] ECB Bank lending survey Q4 2025. See here.
[7] See AFME's response to the UK's FPC review. See here.

shaped by capital intensity, regulatory calibration, and return considerations. In this environment, banks increasingly prioritise balance sheet allocation towards activities with lower capital consumption and more predictable returns. This can mask unmet or deferred demand in areas that are strategically important for the EU but are comparatively capital intensive or longer dated.

The Draghi report highlighted the need for €750-800bn (or 4.5-5% in EU GDP) in additional annual investments to meet the strategic needs of the EU across green, digital, energy, and infrastructure purposes. More recently, the ECB has estimated an increase in these annual needs for 2025-2031 to nearly € 1,200bn, notably due to higher defense commitments[8].

Looking ahead, financing needs are set to increase materially due to the following:

- Public finances are structurally strained, with limited fiscal space at both EU and Member State level. This implies a growing reliance on private sector intermediation to fund investment priorities.
- Strategic EU objectives—including the green and digital transitions, energy security, defence, infrastructure modernisation, and industrial policy—are inherently capital intensive and long term.
- Demographic change and productivity challenges increase the need for investment in innovation, skills, and technology to sustain growth.

In a bank finance dominated system, these trends point to higher demand for bank credit, risk sharing, and market-based intermediation, rather than a diminished role for banks. However, unless the regulatory framework evolves, banks' capacity to meet this growing demand may not expand commensurately.

In summary, while current credit demand is being met in aggregate terms, this equilibrium is fragile and unlikely to hold in the medium to long term given:

- Rising investment needs;
- Limited public financing capacity; and
- Europe's continued reliance on banks as the primary financing channel.

Barriers linked to regulatory design, capital calibration, and cumulative constraints are already influencing banks' participation choices and risk appetite. Without targeted adjustments, these factors risk constraining credit supply precisely in those sectors most critical to the EU's economic and strategic objectives.

AFME therefore considers that ensuring banks can meet future credit demand requires a holistic reassessment of the prudential framework, aimed at enabling banks to intermediate more efficiently, deploy capital where it is most productive, and support sustainable growth—while fully preserving financial stability and a global level playing field.

3. **For the following types of clients seeking financing, how would you assess the ability to access finance and the availability of financing options? What obstacles may limit the ability of banks to provide credit to these clients?**

Continued access to finance for retail clients, SMEs and corporates across the EU is subject to a number of structural and regulatory challenges. These include persistent home bias, as well as barriers to the efficient portability of capital and liquidity within cross-border banking groups (see our responses to questions 18 and 40 respectively), which limit banks' ability to allocate resources flexibly across jurisdictions and to serve clients seamlessly on a

[8] https://www.ecb.europa.eu/press/blog/date/2025/html/ecb.blog20250725~f26b4ef0f3.en.html

cross-border basis. These constraints can reduce the availability, flexibility and efficiency of financing solutions, particularly for firms operating in multiple Member States.

In addition, the evolving global prudential framework, notably the finalisation and implementation of Basel III, raises further concerns. The framework is, in several areas, less risk-sensitive, with capital requirements that are not always commensurate with underlying risk levels. At the same time, divergent and evolving implementation across jurisdictions adds uncertainty and complexity, affecting banks' long-term capital planning and business models. Together with the growing role of new providers of finance outside the regulated banking system, these developments are likely to alter the dynamics of bank capital allocation and the provision of financial services.

From a client perspective, this shifting environment may translate into changes to long-standing banking relationships, practices and conditions. Larger corporates may increasingly be able to access funding through alternative or market-based channels; however, the cost, resilience and reliability of such sources across the economic cycle remain uncertain. By contrast, smaller firms and SMEs, which typically rely more heavily on relationship-based bank lending, are more likely to face reduced product availability, tighter terms or higher pricing, and often lack the scale to diversify funding sources effectively. These impacts are compounded by the unaffordability of obtaining and maintaining a credit rating for many smaller corporates, which can act as an additional barrier to accessing market-based finance.

From a prudential perspective, regarding the capacity of banks to meet financing needs for retail clients, we would like to emphasize that prudential regulation extends beyond merely defining the risk measurement of transactions. For instance, in the context of residential real estate financing, the accumulation of microprudential, macroprudential, and supervisory constraints (e.g. EBA's Guidelines on Loan Origination and monitoring but also ECB expectations) is likely to significantly impact banks' ability to extend credit. Indeed, these cumulative constraints affect the management of these operations throughout their lifecycle (including loan origination policy and, in the event of default, the subsequent management of such situations).

Regarding corporate clients, expectations under CRR such as Article 199(6) may have material prudential and competitiveness implications for EU banks and their corporate clients regarding the additional requirements to enable banks to recognize physical assets as eligible CRM under the F-IRB approach. Industry questions the consistency and proportionality of this regulatory requirement in view of banking practice (e.g. the way banks managed defaulted secured exposures) and the underlying risk of a transaction secured by physical assets.

Overall, these dynamics risk weakening, rather than strengthening, the competitiveness of the EU real economy, particularly for smaller and mid-sized enterprises that are central to growth, innovation and employment. Many of these challenges do not arise from direct interactions with financial institutions alone but are instead the result of structural regulatory and supervisory constraints that shape banks' ability and incentives to provide financing, including those discussed in greater detail in responses to Questions 26, 60 and 66.

In this context, we also note constraints on the ability of non-EU headquartered banks to provide credit to EU clients, specifically the introduction of Art21c of the CRD6.

We recall that Article 21c of CRD6 introduces a requirement for third-country firms to establish an authorised EU branch to provide "core banking activities" into member states, unless on a reverse-solicitation basis or to EU credit institutions. "Core banking activities" are currently defined in Article 47(1), i.e. as deposit-taking, lending, and guarantees and commitments. In

practice, this means that a wide range of cross-border wholesale and corporate banking services fall within scope of the branch requirement, not least due to the purely operational use of accounts to facilitate other services which are typically not considered to be core banking services.

The provision, due to take effect in January 2027, represents a significant departure from certain existing member state-level cross-border regimes for the direct provision of such services. These frameworks have long enabled EU corporates, investors, funds, and financial institutions to receive access to diverse funding sources and other banking services. Going forward, this may be interrupted as EU-based entities will not be made aware of the products and services available on a cross-border basis from outside of the EU. Even where reverse solicitation takes place, new compliance and legal costs may complicate and make less competitive the provision of services, including to clients inadvertently impacted by the scope of the requirement, such as central banks and government authorities.

We note that neither the initial proposals of the CRD6 in October 2021, nor the final provision agreed by the co-legislators were accompanied by an impact assessment or cost-benefit analysis, which would have been essential to assess the proportionality and evaluate the impact of such a wide-ranging change.[9] We note further that third country branches in the EU remain authorised and supervised at Member State level and cannot passport services across the EU.

We would encourage reflection on the creation of an EU-wide third country branch, subject to ECB supervision, and with thresholds and prudential requirements which reflect the nature and scale of the Banking Union. We believe this should be looked at together with other aspects relevant to the completion of the Banking Union. In the continued absence of an EU-wide branch passporting concept, which requires third country providers to set up multiple branches across the EU to service the full European market, AFME believes reconsideration should be given to the scope of the Article 21c limitations on direct cross-border provision in the circumstances set out above.

AFME asks that the European Commission assesses the impact of this provision as part of its 2026 Competitiveness Report and considers **revising Article 21c of CRD6 to limit its scope to *retail core banking activities*, specifically, to retail deposit-taking and retail lending.** However, a notable number of our members do not support this request.

This adjustment would avoid any potential disruptions to the choice for EU governments, central banks and other financial institutions, corporates, investors and funds while maintaining the prudential objective of protecting retail depositors. These objectives are not applicable to sophisticated wholesale clients, such as the above-mentioned corporates and financial institutions, who are well-equipped to assess and manage counterparty risk, and could well benefit from international financing solutions to support their operations in Europe and globally. We acknowledge that some member states have historically required a local

[9] In this context, we also note the EBA's July 2025 report (EBA/REP/2025/21) on direct provision of banking services from third countries, which makes no recommendation to broaden the so-called interbank exemption to additional financial sector entities. However, we note the severe limitations of the report's quantitative analysis, which did not conduct a full cost-benefit analysis or detailed scenario modelling of the impact of Article 21c, including no quantification of potential costs to EU firms or markets if Article 21c is applied in its current form. Instead, the EBA had to rely on existing supervisory data and proxies. As the report notes, an ad-hoc data collection was not conducted, and hence did not, amongst others, consider data for investment firms subject to CRR, payment institutions or e-money institutions, and only partial data on asset management companies or funds. The report also explicitly notes that it could not distinguish which services would be provided under exemptions (e.g. reverse solicitation, intra-group, or the MiFID and MiFID ancillary services exemptions) due to data limitations, making it difficult to assess how much third-country activity would be caught by Article 21c versus exempt, and what impact the requirements of Article 21c would therefore have.

presence for carrying out of core banking activities with non-retail clients and would not suggest that these member states be required to modify their regimes at this stage.

Several practical examples illustrate the unintended consequences of the current Article 21c requirement, particularly, but not only, where operational accounts trigger the core banking services definition:

- **Trade finance and supply chain finance:** EU corporates make use of global banks, including third country headquartered bank for guarantees, documentary and standby letters of credit, and supplier financing. Existing trade finance contracts established with third country banks could become unworkable under the new requirement as they involve core banking services. Moreover, global supply chain finance programmes supported by third country banks and involving EU suppliers could be affected, requiring costly and lengthy re-documentation and risking supplier drop-out. Co-borrower structures, commonly used in trade finance, could also be impacted. These structures often involve multiple entities across EU and non-EU jurisdictions sharing a single facility backed by joint security and repayment obligations. Carving out an EU-based borrower to establish a standalone facility would require renegotiation of guarantees, reallocation of credit limits, and full re-documentation, introducing legal and operational complexity potentially delaying access to financing disrupting the efficient use of shared credit lines underpinning corporates' international trade operations.

- **Custody services:** Custodial services and safekeeping are explicitly excluded from the requirements of Art21c as they are not core banking activities. However, they typically involve the receipt of cash by way of deposit and the provision of short-term credit extensions to clients. While such "ancillary services" are exempted for MiFID services and activities, ambiguous legal drafting of the relevant provisions risks unintentionally severely limiting the provision of custodial services from third country providers. This could disrupt global custody networks, raise costs for EU investors, fragment liquidity and potentially challenge the ability of financial institutions to manage risks across global markets.

- **Central banks and public authorities:** While third country providers of core banking services to EU credit institutions are exempted from the scope of Art21c, it is unclear whether this extends to EU central banks or other public authorities as they may not be classified as credit institutions. We believe that entities providing services on a cross-border basis to entities such as the ECB, national central banks, and member states and their regional or local authorities, as well as international and supranational institutions (e.g. the World Bank, IMF, EIB) should not be subject to the requirement to establish a branch.

- **Payment services and cash management:** While payment services and cash management are not classified as core banking activities under CRD6, they inherently rely on operational deposit-taking, for example to execute or receive payments. EU corporates rely on third country headquartered banks for access to foreign currency clearing systems (e.g. USD via the Federal Reserve, The Clearing House, or the National Automated Clearing House Association, which are only accessible through specified US financial institutions). Requiring these services to be provided from an EU entity would introduce an additional intermediary in the payment chain, bringing with it greater potential for failed or delayed payments and additional costs (such as fees and expenses, transactional charges, foreign exchange rates, etc). Should these services be withdrawn, EU corporates operating in multiple jurisdictions and who currently need to have recourse to providers headquartered outside of the EU for access non-EU payment networks to manage liquidity, execute payroll, and settle cross-border transactions would face significant disruptions. There may also be an increase in costs and complexity for non-bank payment service providers when accessing global payment

networks[10].

- **Financial sector counterparties (funds, insurers, SPVs):** While Article 21c exempts third country providers from the branch requirement when they are providing services to EU credit institutions, it does not extend this exemption to other EU financial institutions or financial sector entities. Many EU funds, asset managers, insurers, and SPVs make use of liquidity, credit lines, and (non-retail) deposit services provided by third country banks. These entities are sophisticated and essential to the functioning of the EU economy. Restricting their access to international financial markets could result in rising costs, reduced investment options, and impacted risk management.

Given that the transposition of CRD6 into national legislation was due by 10 January 2026 but is in practice still largely ongoing, the Commission should ideally assess within a short timeframe how best to operationalise changes to the current Article 21c provision, including whether transitional forbearance may be necessary to avoid disruption ahead of the expiry of grandfathering provisions in July 2026 and the full application of Article 21c in January 2027.

4. **To what extent does market fragmentation affect consumers' and businesses' cross-border access to banking products and services? Please give examples, such as but not limited to IBAN discrimination and difficulties of businesses and individuals to open a bank account, lack of harmonisation of banking products, challenges linked to open finance data sharing. Please provide data if available.**

Please also consider our answers to Q11 and Q37 on non-prudential barriers to cross border banking integration.

According to ECB data, financial integration as measured by their price-based indicators has improved vs pre GFC in the bond and money market sector but has not fully recovered in the banking sector and has deteriorated in the equity market.

Price based financial integration indicator by financial sub-sector
1 (max)- 0 (min)

	Oct-25	Dec-07
Money Market	0.58	0.38
Bond Market	0.82	0.74
Equity Market	0.49	0.61
Banking Sector	0.72	0.79

Source: ECB

Market fragmentation continues to materially constrain cross-border access to banking products and services in the European Union. The core issue lies in the inability of banks to operate a single, standardised model for onboarding, product design and servicing across Member States. As a result, institutions face higher operational complexity, increased unit costs and slower customer onboarding processes. These frictions ultimately translate into fewer cross-border offerings, less competitive pricing and weaker overall customer experience.

One of the most visible barriers arises in account opening and onboarding. Clients attempting to access banking services outside their home country still encounter practical obstacles such as requirements for local tax identification numbers, proof of address or even in-branch verification for non-residents. These challenges are compounded by divergent AML/KYC frameworks and supervisory expectations, which lead to inconsistent documentation requirements and control processes. This fragmentation makes it difficult to scale fully digital,

[10] The EBA's report acknowledged that non-bank payment services providers raised concerns about the impact of Article 21c on cross-border payments in a range of currencies and highlighted the potential for increased costs and complexity, particularly in the remittance sector.

cross-border onboarding solutions and significantly increases compliance and operational costs.

In parallel, IBAN discrimination persists in practice, despite SEPA rules. Some service providers and counterparties continue to reject non-domestic EU IBANs, forcing customers to maintain local accounts and undermining account portability and the functioning of the single market.

A broader structural issue is the lack of harmonisation in retail and other banking products, legal frameworks and consumer protection rules. Key areas such as mortgage enforcement, collateral regimes, consumer credit requirements, corporate insolvency laws, pricing structures and disclosure formats remain largely national. This prevents banks from offering "one product, one process" across the EU and instead requires extensive country-by-country adaptations, including legal analysis, product redesign, IT adjustments and tailored customer communications. These additional costs are ultimately borne by consumers and reduce incentives for banks to expand cross-border.

These frictions are reflected in the limited level of cross-border integration. There has been very limited progress in the provision of cross-border banking services across the single market. Since March 2013, date of the political agreement to establish the first pillar of the banking union, the share of non-domestic retail deposits has increased by just 0.5 pp, while non-domestic retail loans have grown by 0.3 pp. At the same time, non-financial corporate (NFC) deposits have declined by 1.2 pp, while NFC loans have increased by only 3.0 pp. This shows that the banking sector continues to be largely domestically concentrated[11]. Furthermore, our members have shared with us that interest rate spreads between Member States can exceed 150–200 basis points, highlighting the persistence of fragmentation.

From an operational perspective, banks attempting to scale cross-border face multiple layers of complexity. These include differences in AML/KYC requirements, national advertising and consumer information rules, varying e-signature and contracting standards, unequal access to credit bureau data, divergent interpretations of data protection rules, and country-specific constraints on ancillary products such as insurance. In addition, supervisory expectations regarding outsourcing and technology platforms may differ across jurisdictions, even when banks use shared infrastructure.

Reducing fragmentation would therefore bring clear benefits. Greater harmonisation would enable banks to streamline operations, lower costs and deploy scalable digital solutions, while improving access to banking services across the EU. Progress in completing the Banking Union and advancing the Investment and Savings Union, together with stronger supervisory convergence and harmonised digital identity frameworks, would be key enablers of this transition.

The EU's banking regulatory framework has become increasingly complex, not only because of the volume of rules, but above all due to the interaction of multiple prudential, resolution and supervisory layers and the cumulative effect of capital requirements applied at different levels of the group. This complexity translates directly into fragmentation, as national implementation choices, supervisory practices and overlapping buffers prevent banks from managing capital on a genuinely group-wide basis. As a result, EU banks face a structural accumulation of capital requirements—across Pillar 1, Pillar 2, macro-prudential buffers, MREL and other add-ons—that is largely unique to the EU and not observed to the same extent in other major jurisdictions. This fragmentation-driven capital stacking ties up resources unnecessarily, increases the cost of balance-sheet-intensive activities and ultimately feeds through to higher costs and reduced availability of financing for EU corporates and end-users.

[11] AFME "Banking Union: measuring progress and identifying implementation gaps" (pages 11 and 12). A closer inspection by country shows that only very few countries exhibit high levels of cross-border integration. Among them, Luxembourg stands out, with a significant share of deposits and loans originating from non-domestic sources, largely due to the incentives created by the local fiscal framework, incentives for financial services to locate there, and the international nature of its labour force. The favourable fiscal framework may also explain the large portion of cross-border NFC Loans in Ireland.

Further, were capital to be more commensurate with actual risk, banks would also be able to intermediate more efficiently across wholesale and capital markets. For internationally active firms, a regime more aligned with international practice reduces costs and supports a wider range of financing, underwriting and market-making activities. These effects matter for the real economy: deeper, more liquid markets lower the cost of raising equity and debt for corporates, improve price discovery, and attract global investment flows to the EU. Adjustments to overall capital requirements will support real-economy lending alongside enhanced wholesale capacity. Where capital is freed up and the cost of equity falls, banks can price more competitively, widen the set of bankable projects and allocate their balance sheet to productive investment, such as infrastructure financing or corporate lending.

5. **To what extent does the EU economy benefit from a diversified banking sector? How would you further encourage the diversity of the EU banking sector landscape, with banks operating across different business models (universal, investment, savings, mortgage financing, cooperatives, digital banks, etc.)? Please elaborate whether and how banking sector diversity matters.**

The EU primary capital markets benefit from the concurrent participation of various EU and non-EU headquartered institutions. At a global level, EU banks have a smaller footprint than in the local EU market.

AFME has consistently called on policymakers to carefully consider whether the current EU regulatory and supervisory framework allows EU banks to reach a sufficient scale to remain competitive internationally and to provide products and services that inherently require scale, balance sheet capacity and global reach. Fragmentation, combined with overlapping capital, leverage and resolution requirements applied at multiple levels of banking groups, constrains EU banks' ability to efficiently deploy capital across jurisdictions and business lines. This has direct implications for investment banking and global markets activities—such as market making, underwriting, derivatives clearing and risk management—which rely on scale, diversification and the ability to serve clients seamlessly across borders. Without addressing these structural constraints, EU banks risk falling further behind international peers.

ECM EU League table (2025FY). IPOs, Follow ons, convertibles

Rank	Bookrunner (Parent)	% Share
1	Goldman Sachs	10.81
2	BNP Paribas	10.78
3	Morgan Stanley	9.95
4	JPMorgan	9.81
5	BofA Securities	8.68
6	Citi	4.90
7	Deutsche Bank	3.81
8	SG Corporate & Investment Banking	3.56
9	Barclays	2.65
10	UniCredit	2.30

IPOs league table: EU, 2025

Rank	Bookrunner (Parent)	% Share
1	DNB Carnegie	9.09
2	Danske Bank	7.42
3	Citi	7.27
4	BNP Paribas	6.78
5	SEB	5.38
6	Nordea	5.33
7	Jefferies LLC	4.64
8	UBS	4.58
9	Deutsche Bank	3.37
10	BofA Securities	3.25

Equity follow-ons league table, EU, 2025

Rank	Bookrunner (Parent)	% Share
1	JPMorgan	12.24
2	Morgan Stanley	11.62
3	Goldman Sachs	10.89
4	BNP Paribas	10.83
5	BofA Securities	8.35
6	Citi	4.12
7	Deutsche Bank	3.69
8	SG Corporate & Investment Banking	3.45
9	Barclays	2.91
10	UniCredit	2.45

ECM Global table (2025FY). IPOs, Follow ons, convertibles

Rank	Bookrunner (Parent)	% Share
1	JPMorgan	9.22
2	Goldman Sachs	8.42
3	Morgan Stanley	8.41
4	BofA Securities	5.74
5	Citi	4.87
6	UBS	3.36
7	Jefferies LLC	2.71
8	Barclays	2.64
9	Cantor Fitzgerald & Co	2.15
10	BNP Paribas	2.00

DCM EU League table (2025FY)

Rank	Bookrunner (Parent)	% Share
1	BNP Paribas	8.17
2	Deutsche Bank	6.59
3	JPMorgan	6.24
4	Credit Agricole CIB	6.06
5	Citi	5.01
6	SG Corporate & Investment Banking	4.96
7	BofA Securities	4.38
8	Morgan Stanley	4.09
9	Barclays	4.04
10	Goldman Sachs	3.49

Corporates, sovereigns, supranationals, and securitised product; EU IG corporate bonds league table (2025)

Rank	Bookrunner (Parent)	% Share
1	BNP Paribas	8.17
2	Credit Agricole CIB	6.61
3	Deutsche Bank	6.33
4	SG Corporate & Investment Banking	5.31
5	JPMorgan	4.59
6	BofA Securities	4.08
7	ING	3.72
8	Citi	3.43
9	HSBC	3.25
10	Natixis	3.24

EU HY corporate bonds league table (2025)

Rank	Bookrunner (Parent)	% Share
1	JPMorgan	8.91
2	BNP Paribas	8.04
3	Goldman Sachs	5.64
4	Citi	4.94
5	Morgan Stanley	4.54
6	Credit Agricole CIB	4.08
7	Pareto Securities	3.77
8	Deutsche Bank	3.65
9	UniCredit	3.59
10	SG Corporate & Investment Banking	3.58

DCM Global league table (2025FY). Corporates, sovereigns, supranationals, and securitized product

Rank	Bookrunner (Parent)	% Share
1	JPMorgan	6.15
2	Citi	5.57
3	BofA Securities	5.42
4	Morgan Stanley	4.76
5	Goldman Sachs	4.00
6	BNP Paribas	3.90
7	Barclays	3.61
8	Deutsche Bank	3.21
9	Wells Fargo	3.02
10	HSBC	2.56

Number of countries in which the bank operates as a Primary Dealer of sovereign debt
EU27 countries and EU Commission PD network

Firm	Number of countries in which the entity operates as PD
Citigroup	19
J.P. Morgan	19
Deutsche Bank	17
HSBC	16
Bank of America	15
Barclays	15
BNP Paribas	15
Goldman Sachs	15
Morgan Stanley	14
Société Générale	14
Nomura	12
Credit Agricole	9
ERSTE Group Bank	9
Banco Santander	8
Natixis	8
Commerzbank	7
NatWest Markets	7
UniCredit	7
Danske Bank	6

Source: AFME from national and EU DMO websites. Consolidates subsidiaries and branches of the parent entity

6. Do you consider that national promotional banks and public guarantee institutions provide a complementary contribution to the activities of commercial banks in financing the EU economy?

National Promotional Banks (NPBs), together with the EIB and EIF, play a complementary and systemically important role in financing the EU economy, primarily through a partnership model with commercial banks. In this model, banks originate and manage credit risk, while public institutions enhance financing via guarantees, risk-sharing, securitisation and investment tools.

This approach has proven effective in supporting key sectors—including SMEs, infrastructure, innovation, and the green and digital transitions—while also enabling countercyclical support during crises. Instruments such as securitisations and portfolio guarantees are particularly valuable from a prudential perspective, as they improve capital efficiency, free up balance sheet capacity and sustain lending.

The EIF further strengthens the ecosystem by acting as a cornerstone investor in venture and private capital, mobilising private investment and supporting the development of EU capital markets.

The model's success relies on two principles: additionality (targeting areas where market financing is insufficient) and complementarity (avoiding crowding out private banks). Partnership-based approaches can be considered as more efficient and sustainable than direct public lending.

Finally, simplification and reduced administrative burden—especially for SME-focused instruments—would enhance scalability and effectiveness.

The considerations set out above are closely linked to the broader policy debate under the Savings and Investment Union (SIU) on scale—both in relation to supporting start-ups and scale-ups and to strengthening Europe's PE and VC ecosystem. As highlighted in the Noyer & Kukies report[12], the key challenge is not necessarily the volume of public funding, but the extent to which fragmentation, limited coordination and complex access conditions dilute its effectiveness and risk crowding out private capital. Therefore, we consider that greater consolidation, coordination and ease of access to existing programmes would deliver more scale and firepower than the introduction of additional public funds.

7. To what extent would the EU economy benefit from the following changes in the banking landscape?

	To a very large extent	To a large extent	Neutral	To a small extent	Not at all	No opinion
Cross-border bank consolidation	X					
Domestic bank consolidation		X				
Banking services offered across the single market	X					
Digitalised banking services	X					
Other (please indicate)						

Please explain.

European banking consolidation activity has declined, with banking M&A deals dropping from over 100 transactions in 2010 to fewer than 20 in recent years.

The lack of consolidation results in limits to making use of euro-wide economies of scale. For instance, a study[13] commissioned by the European Parliament found that the top 5 banks in the US hold c50% of total banking assets, compared to 30% by the top 5 banks in the Euro area. However, within individual Euro countries, concentration is higher (60-80%), indicating that banks can leverage national but not euro-wide economies of scale.

Most recently, high-profile deals such as BPCE's planned acquisition of Novo Banco, and UniCredit's intention to acquire Commerzbank, reflect a renewed interest in cross-border consolidation among large banking groups. The number of these proposed acquisitions, however, continues to be below that observed historically both when estimated on aggregate and relative terms as a share of total credit institutions.

[12] See Noyer & Kukies, Developing European Capital Markets to Finance the Future report (see here; Section 4.2). Please also see AFME's recent report in collaboration with zeb Consulting on the mobilization of capital in Germany.

[13] https://www.europarl.europa.eu/RegData/etudes/IDAN/2025/764378/ECTI_IDA(2025)764378_EN.pdf

In general, cross-border banks enhance geographic diversification, helping absorb local shocks, stabilise credit supply and channel savings and investment more efficiently across Member States. By contrast, the case for domestic consolidation varies across countries and should remain market driven. While some banking systems are already concentrated, others, particularly large euro area economies, remain relatively fragmented, suggesting potential for further consolidation depends on market conditions.

Overall, scale is the key transmission channel: larger, integrated banking groups can spread fixed costs, improve efficiency and profitability, and support more resilient lending to households and businesses. Customers benefit through broader product offerings and better pricing.

Finally, international diversification (including outside the EU) strengthens stability by reducing earnings volatility and enhancing risk management. However, current EU regulatory and supervisory frameworks often fail to fully recognise these benefits, limiting banks' ability to leverage global operations. A more consistent and flexible treatment—considering Basel-compliant third-country regimes—would improve capital efficiency, resilience and competitiveness.

8. **What are in your view the main risks faced by EU banks today?**

AFME will not provide a response to this question.

9. **What are in your view the main risks stemming from EU banks today?**

AFME will not provide a response to this question.

Competitiveness and competition in the EU banking sector

10. **In which of the following dimensions of competitiveness is the EU banking sector performing well?**

	Fully agree	Somewhat agree	Neutral	Somewhat disagree	Fully disagree	No opinion
EU banks produce financial products at low cost and/or offer financial services at a low price		X				
International competitiveness: EU banks are able to maintain and increase their market shares in international markets					X	
Innovation competitiveness: EU banks are able to supply qualitative or innovative, original financial products or services		X				
Other (please indicate)						

Please explain and indicate for the different business areas (wholesale and investment banking, retail banking, etc.)

Our response to this question focuses on wholesale banking and therefore our consideration of competitiveness is broadly through that prism.

A. Price competitiveness: Capacity of EU banks to produce financial products at low cost and/or offer financial services at a low price:

In banking, including corporate and investment banking, EU banks must maintain high capital buffers hence lowering their lending capacity and ability to offer competitive pricing to earn the required return on allocated capital. Moreover, in retail banking, due to the absence of unified market, each retail market has its own specificities, for instance in terms of rate sensitivities reflecting different pricing strategy and other national specificities as described in question 4 (for instance predominance of fixed-rate mortgage loans in some Member States).

The intensity of supervisory action acts as a hidden cost driver: The growing volume of supervisory data requests, horizontal reviews and onsite inspections—often duplicative and insufficiently risk based—diverts significant operational resources without commensurate prudential benefit, inflating overhead costs that directly affect pricing capacity.

B. International competitiveness: Capacity of EU banks to maintain and increase their market shares in international markets

EU Banks have lost significant market shares in investment banking and capital market activities in Europe over the past 10/20 years. In M&A down from 45% to 36% and in ECM, down from 58% to 36% over the past 20 years. In Global equity market, down from 35% to 20% over the past 10 years.

The erosion of EU banks' global market share is not a reflection of weaker expertise or business models, but of a structural inability to achieve sufficient scale. We would encourage a holistic and outcomes-based international comparison of regulatory and supervisory frameworks.

Unpredictable and intrusive supervision undermines international credibility. International clients and counterparties value regulatory predictability. The documented unpredictability of supervisory outcomes, limited appeal mechanisms, and use of "regulation through supervision" in the EU reduce confidence in EU based platforms compared with jurisdictions where supervisory discretion is more clearly bounded.

EU banks compete globally against institutions benefiting from competitiveness or growth/employment mandates. Major jurisdictions (UK, US) have explicitly embedded competitiveness and growth objectives into supervisory mandates.

C. Innovation competitiveness: Capacity of EU banks to supply qualitative or innovative, original financial products or services

Constraints on EU banks' profitability limits their ability to innovate, becoming a strategic vulnerability as they are less able to scale their investment in data infrastructure, cloud migration, cybersecurity, and AI at the same pace as other jurisdictions[14].

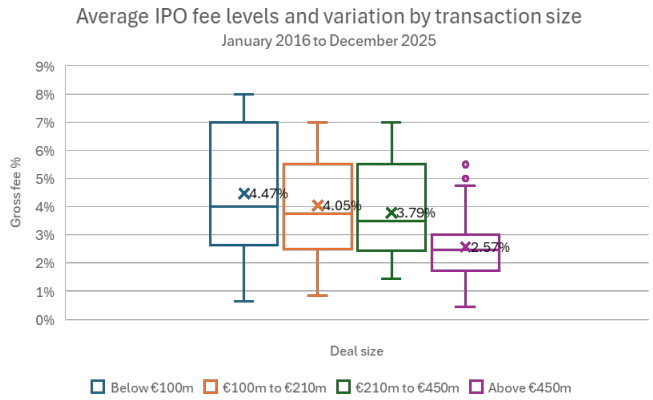
Regulatory complexity crowds out innovation investment. EU banks' ability to invest in cloud, data, cybersecurity and AI is constrained not only by profitability, but also by higher marginal costs and approval uncertainty and the sheer volume and instability of regulatory change, which diverts investment budgets toward compliance remediation rather than transformation. It is also important to note the EU's more penalizing prudential treatment of investments in software. In the EU banks have to deduct such exposures from their CET1, by comparison, in

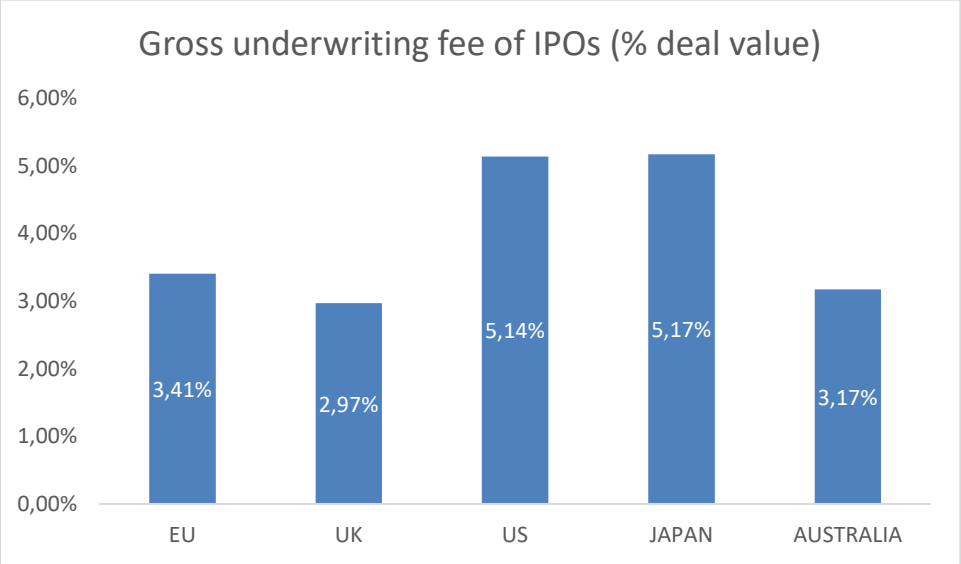
[14] For ECB-supervised banks, IT expenses typically account for around 9–10% of total operating expenses, with material variation across institutions (see here). In comparison, US commercial banks now devote ~19% of total non-interest expenses to IT and marketing, up from about 4% in 2004 (see here).

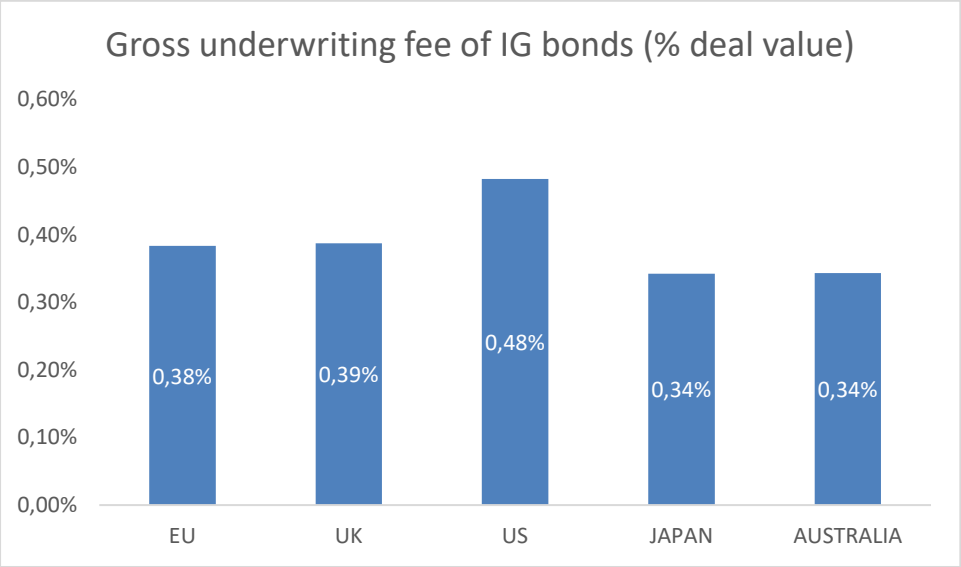
the US banks are generally permitted to recognize 100% of software assets on their balance sheets without a corresponding regulatory capital deduction.

Fragmented digital and data frameworks inhibit scalable innovation. Overlapping and inconsistent rules across DORA, AI Act, data sharing initiatives and sector specific requirements create legal uncertainty and implementation risk, discouraging the deployment of scalable, cross-border digital solutions within the EU.
Supervisory risk aversion slows adoption of new technologies. The lack of clear, harmonised supervisory expectations—particularly for cloud outsourcing, AI use cases and group wide IT architectures—creates uncertainty over ex post supervisory reactions, leading banks to delay or limit innovation even where technologies are mature and widely used elsewhere.

IPO fees vary depending on deal value size and are generally comparable with those observed in other markets.







Source: Dealogic

11. What are the main regulatory and non-regulatory factors that determine and drive the competitiveness of EU banks? Please specify the factors per market segment: savings, payments, retail banking, corporate banking, investment banking (including underwriting, brokerage, custody, settlement, market making, etc.).

The competitiveness of the EU banking sector is shaped by a combination of regulatory, structural and market factors. Over the past decade, the European Union has developed a robust prudential and supervisory framework based on international standards that has strengthened the resilience and stability of the banking sector. This strong regulatory foundation is an important asset for the European financial system and contributes to confidence among investors, customers and market participants.

At the same time, the competitiveness of the EU banking sector is influenced by the fragmented structure of European financial markets. Differences in national legal frameworks, supervisory practices, taxation systems, insolvency regimes and market infrastructures can create operational complexity for banks operating across multiple Member States and limit the ability of institutions to fully benefit from the scale of the EU economy.

Structural factors are also particularly relevant across different banking segments. In retail banking and payments, fragmentation may limit the scalability of digital financial services across Member States. In wholesale and investment banking, deeper and more integrated capital markets would strengthen the capacity of EU financial institutions to support corporate financing, infrastructure investment and innovation.

Non-regulatory

Taxation is a prime example of a national competence with significant EU-wide implications for economic attractiveness and competitiveness. Banks are major contributors to public finances through corporate and employer-related taxes. However, higher corporate tax rates and bank-specific taxes mean that banks operating in Europe face a much higher cumulative tax burden compared to banks operating in the US and Asia. Our recent report on Bank Taxes in Europe[15] highlights that, for example, a Dutch bank faces a total tax rate of 42.2% and a German bank 38.9%, compared to 27.9% for a US bank. Since 2022, ten EU Member States have introduced new bank taxes, and a further six have increased bank levy contributions. Complex and frequently changing taxes increase the overall cost of doing business for European banks, particularly when compared to non-European banks, and have a negative effect on EU competitiveness.

[15] https://www.afme.eu/publications/reports/bank-taxes-in-europe-eu-and-uk/

Furthermore, the financial transaction tax (FTT) landscape in the EU is marked by a patchwork of rules with considerable variation in scope, design, and implementation. Evidence shows that the costs of FTTs are largely passed on to investors, running counter to the objectives of fostering retail investor and pension fund participation in European equity markets. From an operational and compliance perspective, many FTTs are extraterritorial in nature (e.g. France, Spain, Italy, Ireland), with banks and brokers acting as tax collectors and bearing the associated administrative and systems costs. The fragmented nature of the rules across Europe, often coupled with a lack of guidance and insufficient lead times, further increase complexity, operational risks, and costs for banks e.g. the risk of incurring interest and penalties. Our recent report on Bank Taxes in Europe notes that the introduction of FTTs in France, Italy and Spain was associated with reductions of 20–35% in market activity, with revenues falling well short of initial expectations. Against these burdens, revenues from FTTs are estimated to amount to less than 0.3% of GDP in all MS, according to a recent study commissioned by the European Parliament's FISC Subcommittee.

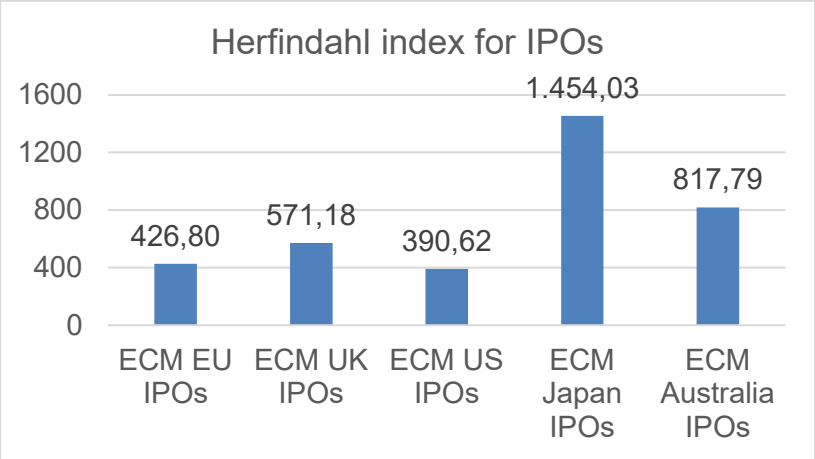
12. How would you assess the current level of competition in the banking sector within the single market?

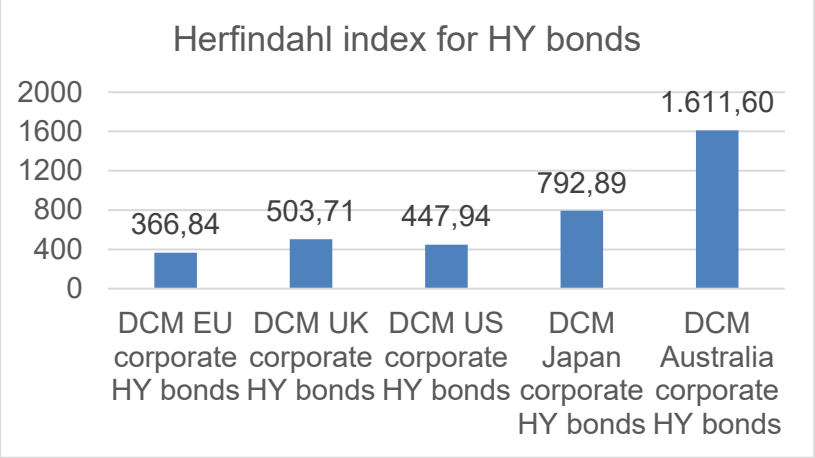
	Fully agree	Somewhat agree	Neutral	Somewhat disagree	Fully disagree	No opinion
EU banks face high levels of competition within their Member State of establishment	X					
EU banks face high levels of competition in the EU market		X				
EU banks face high levels of competition in global markets/ markets outside of the EU	X					
Traditional banks are challenged by new developments in a number of product lines and areas (e.g. digital banks/FinTech in specific areas such as payments, tokenisation of assets, etc)		X				
Other (please indicate)						

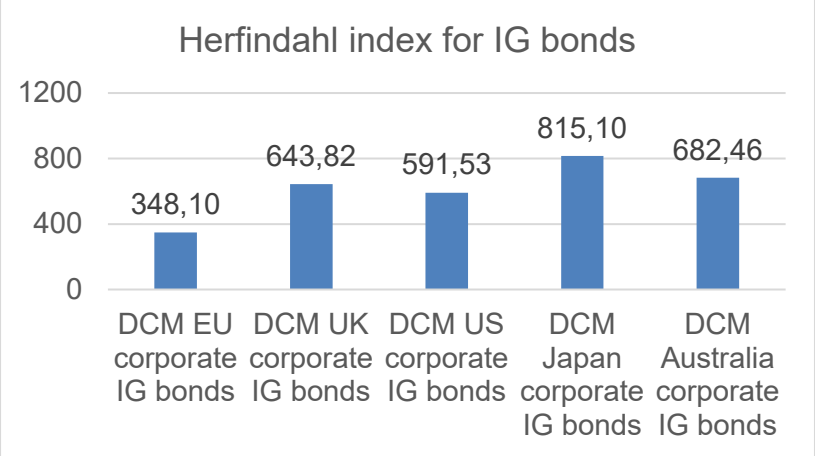
Please explain.

The current level of competition in the banking sector is hampered by the incompleteness of the Banking Union, making it hard for European banks to operate seamlessly across all European markets or achieve scale which is needed for supporting global competitiveness and capital market intermediation services. The latter requires scale in order to access global investor bases, investment in infrastructure, technology, trading expertise and risk management skills.

The charts below illustrate the lower concentration measured by the Herfindahl index of lead underwriters in EU corporate bond and IPO markets compared to those in other jurisdictions:







Source : Dealogic. Based on market share of bank lead underwriters

Further, key impediments to competition within the single market are:

- National ring-fencing measures which oblige cross-border banking groups to maintain local capital and liquidity buffers, limiting the fungibility of resources. These frictions raise operational costs, reduce efficiency gains from operating at scale, and discourage deeper cross-border integration, weakening competitive dynamics.

- Outstanding gaps and a lack of harmonization in depositor protection. We do not consider that increases to depositor protection through additional funding are appropriate given the comprehensive protection already in place, but we do consider that enhancements should be made to the functioning of existing frameworks and that gaps and a

lack of harmonization should be addressed, without generating moral hazard or un-necessary complexity. Please see our responses in Sections 2.1 and 2.4 for further detail.

- In spite of a single banking supervisor for EU significant institutions (SIs), supervisory and reporting complexity remains.

Banks and other financial institutions as enablers of capital markets

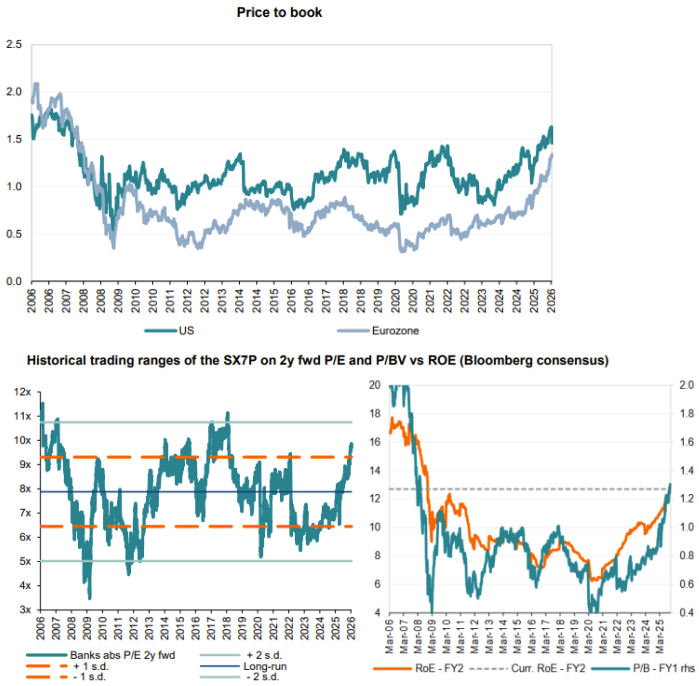
13. According to many analysts, EU banks are persistently undervalued by investors when compared to international peers. If you agree with this assessment, what could explain this undervaluation?

	Fully agree	Somewhat agree	Neutral	Somewhat disagree	Fully disagree	No opinion
Limited scale and inefficiency of EU capital markets (limited depth, insufficient liquidity, etc.)	X					
Macro-economic environment (economic growth, inflation, fiscal situation, interest rates, demographics)	X					
Limited growth and scaling up prospects due to market fragmentation and different national rules	X					
Underinvestment in new technologies					X	
Supervisory practices (e.g. potentially impacting the level of dividend distribution and share buybacks)	X					
EU regulatory/ resolution frameworks (including international level playing field)	X					
Internal factors (low risk appetite, bank governance/culture)					X	
Uncertain or ineffective market exit for inefficient or distressed banks		X				
Other (please indicate)						

EU banks have narrowed their valuation discount relative to US banks in recent years. This convergence, however, appears to be driven largely by cyclical factors. Rising net interest margins and stronger loan demand have supported earnings momentum in the euro area, with loan origination growing by 3% year-on-year in 2025, compared with a 0% growth in 2023.

Despite the economic cycle, a meaningful valuation gap versus US banks persists, as reflected in price-to-book multiples (see left chart below). This suggests that structural constraints continue to limit the ability of European banks to outperform global peers. These constraints are primarily related to the banking sector's limited capacity to fully leverage the benefits of the EU single market as noted above.

Price-to-book ratio of US and Eurozone banks (top chart) and PE valuation multiples and RoE of Eurozone banks compared to historic levels (bottom chart).



Source: BNPP with Bloomberg data.

14. Does the prudential framework adequately account for the activities and the complexity of intermediaries performing financial services other than core banking services? Are there any perceived undue limitations to such activities? Reference is made to financial services performed by investment firms, financial advisors, custodians, wealth managers, market makers or other liquidity providers that are not primarily or not at all engaging in deposit taking and granting loans.

While a one-size-fits-all approach to the implementation of the prudential framework is unlikely to be suitable, non-bank intermediaries engaging in activities which are considered to be bank-like, such as underwriting or dealing on own account, such as electronic liquidity providers or market makers, should in principle be subject to the same prudential and supervisory requirements as those which are applied to banks, particularly when they have significant footprints in systemic financial markets. This is the case under the Investment Firm Regulation today and should be maintained. Simply not engaging in deposit taking or lending should not be a justification for less stringent prudential requirements if a firm is engaging in other activities which are in fact bank-like in that they involve risk transformation or liquidity provision.

It is important to note that some of the largest non-bank liquidity providers have expanded significantly into equity, fixed income (including sovereign) and related derivatives markets in recent years, yet none have been tested through a genuinely market-wide stress event or impact tolerance testing. Unlike banks, which are subject to supervisory stress tests across multiple cycles, and resolution planning, the resilience of these firms has neither been subject to a supervisory stress test, nor have they undergone correlated fixed income market stress. At present, regulators and supervisors do not have full transparency, on a consolidated basis and across the multiple jurisdictions in which these firms operate, to assess whether they possess the operational resilience, liquidity resources, and loss-absorbing capacity required to remain active liquidity providers for clients and the broader market in stress scenarios. The development of these activities outside of the regulated system should therefore be carefully monitored, with tools put in place to enable this to the extent that they are not yet available.

Finally, we note that banks may perform some of the activities outlined in the question, for example custodian banks.

15. **How would you assess the competition between banks and other entities performing financial services (such as financial conglomerates, investment firms, FinTechs, etc.) from the perspective of the overall functioning of capital markets (provision of liquidity, transparent market information and pricing, scaling up of trading venues etc.)?**

Competition between banks and other financial institutions can contribute positively to the functioning of capital markets by supporting innovation, improving service quality and expanding financing options for customers. At the same time, it is important that entities providing comparable financial services operate under appropriately consistent regulatory and supervisory frameworks, to ensure financial stability and maintain a level playing field across the financial system (see question 14 above).

The following points outline the key determinants of a healthy competitive environment and the implications for market functioning.

1) Regulatory certainty and proportionality:

- As explained in detail in question 49, regulatory stability, transparency and appropriate sequencing across all levels of the Lamfalussy process are essential to support competitiveness of firms, including banks and other market participants. For banks with sizeable capital market activities, it is particularly important that the impacts and sequencing of the work carried out by both prudential and markets authorities are considered holistically.

- In particular when adjusting rules which impact banks' ability to provide liquidity, policymakers should consider phased introduction of any new requirements so that regulators can assess impacts on liquidity and transparency within the EU and adjust calibration where necessary. See also question 25.

- Continuous, data-driven supervision will help maintain the delicate balance between market depth and the need for real-time transparency.

- To prevent compliance costs from becoming a barrier to entry for emerging players while still safeguarding market integrity, requirements should apply proportionately on a risk-sensitive basis – for example, a risk-based scope for trading venue authorization.

2) Open access infrastructure and market data:

- Ensuring that market data and reference-price services are treated as a public good would reduce information asymmetries and enable price transparent competition.

- In parallel, interoperable connectivity standards would allow smaller firms to access the same liquidity pools as incumbents, thereby broadening the pool of potential counterparties.

3) Best execution and investor choice:

- A well-functioning competitive environment requires all providers to demonstrate best execution in trading against objective, measurable criteria. Maintaining a diversity of execution methods, including bilateral trading, benefits investors through tighter spreads and deeper order books which in turn supports overall market liquidity.

- In general, in equity markets, there has been a shift away from trading on exchanges' central lit order books (CLOBs) and towards other mechanisms (including bilateral trading and auctions) which help investors to minimise the price impact of their trading activity and guard against information leakage. In the context of the MISP negotiations, we note that some market participants have sought to portray bank systematic internalisers (SIs) as not contributing to price formation. This view is not supported by market practice, given that SIs are subject to post-trade transparency requirements and play a meaningful role in delivering efficient outcomes for end clients.

4) Fostering innovation:

- Public policy should avoid protective interventions that protect legacy market infrastructure from competition from alternative trading mechanisms and consistently foster innovation by avoiding entry barriers and by ensuring that new entrants are subject to the same scrutiny as any other market participants.

5) Strategic autonomy and international competitiveness:

- Strategic autonomy must remain a core objective, but domestic markets also must stay attractive to global investors, and EU market participants must be able to compete internationally.

- Alignment of EU-wide standards (MiFIR, EMIR and CSDR), together with effective cooperation with third-country regulators, will help reinforce the EU's position as a leading capital markets hub.

Cross-border activities in the EU banking sector

16. For retail banking as well as for wholesale and investment banking, would you agree with the following statement: The EU banking market is highly fragmented along national borders, domestic entities mainly cater for domestic clients, cross-border activity is subdued, and it is very difficult for clients to get banking services across the single market.'

	Fully agree	Somewhat agree	Neutral	Somewhat disagree	Fully disagree	No opinion
Retail banking	X					
Wholesale and investment banking	X					

Please explain.

We agree that there has been very limited progress in the provision of cross-border banking services across the BU.

Since March 2013, date of the political agreement to establish the first pillar of the BU, the share of non-domestic retail deposits has increased by just 0.5 pp, while non-domestic retail loans have grown by 0.3 pp. At the same time, non-financial corporate (NFC) deposits have declined by 1.2 pp, while NFC loans have increased by only 3.0 pp.
One of the key objectives of the BU was to foster a more integrated European banking market, reducing fragmentation and ensuring that capital and liquidity could flow freely across Member States. However, the data suggest that progress has been slow, with most national banking systems still primarily serving domestic markets.

Prior to the BU, in the absence of cross-border banking lending and deposits, European banks established subsidiaries in other (now BU) countries. The presence of subsidiaries, however, has declined since the end of the European sovereign debt crisis from 12% of total euro area banking assets in 2010 to 6.5% in 2024. The participation of branches by cross-border banks has remained relatively unchanged representing c4% of total euro area assets since 2006.

The participation of cross-border subsidiaries in BU countries, however, significantly varies by country. ECB data indicates that in Slovakia, c81% of total banking assets are from cross-border subsidiaries of other EU countries. This contrasts with the EU subsidiaries in France (2% of banking assets), or Spain (1%) were cross-border participation via subsidiaries is relatively minor.

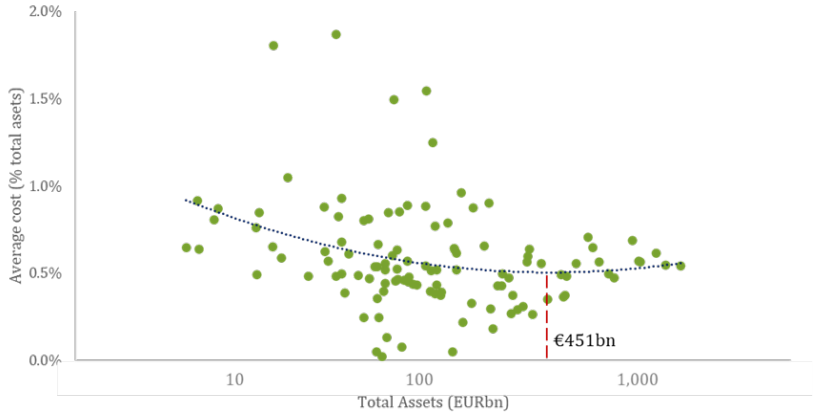
Please see also our answer to Q18 for our recommendations on fragmentation.

17. What are, in your view, the benefits and the costs associated with the current level of cross-border banking activities in the EU, and what would be the benefits and costs associated with further integration of banking activities in the EU? Please also include quantitative estimates if available.

Critical barriers still limit EU banking consolidation, including over €475 bn in capital and liquidity trapped by regulatory ringfencing[16], as well as the fact EU banks face higher funding costs versus global peers with stringent MREL requirements (28% of risk weighted assets) exceeding levels in the US (22%) creating a competitive disadvantage. Furthermore, the AFME Banking Union report finds EU Banking M&A is the slowest in the world with acquisitions taking 285 days on average – far longer than the US (219 days) delaying consolidation and weakening the sector's efficiency.

Persisting fragmentation is also preventing banks operating in the EU from fully benefiting from economies of scale. Specifically, AFME has estimated, that average operational costs (administrative expenses relative to total assets) decrease up to a size of €451bn total assets, beyond which average costs then begin to rise again. This inflection point indicates that larger banking groups may struggle to achieve further efficiency gains without regulatory change.

Fragmentation prevents large banking group of making use of economies of scale: economies of scale of EU banks by average operational costs (2023)



Source: AFME estimates with EBA data. Each dot represents a bank. Total assets in logs. Average Cost = Admin. expense / Total Assets

18. What factors prevent EU banks from engaging in more cross-border activity within the EU or make cross-border activity more costly?

	Fully agree	Somewhat agree	Neutral	Somewhat disagree	Fully disagree	No opinion
Divergent implementation of EU banking rules across Member States		X				
Supervisory divergence/gold-plating by Member States/national supervisors		X				
Requirements for allocation of capital and liquidity at local level	X					
Non-harmonised macroprudential buffers	X					

[16] AFME's report on the Banking Union: https://www.afme.eu/our-work/simplification/banking-union-measuring-progress-and-identifying-implementation-gaps/).

National discretion in intragroup large exposure limits		X				
Incomplete banking union (lack of a European deposit insurance scheme, liquidity in resolution, etc.)	X					
Non-prudential barriers (insolvency, investor protection, company law, taxation)		X				
Political barriers (government direct or indirect interference)		X				
Complexity and length of mergers and acquisition supervisory authorisation procedures	X					
Costs/risks of mergers and acquisitions						X
Absence of economies of scale from engaging in cross-border activities		X				
Other (please indicate)	X					

Please explain.

Central to the competitiveness of the EU banking sector is the viability of cross-border waivers for capital and liquidity within EU groups. We note that the ECB's ability to grant (partial) cross-border waivers for the LCR and NSFR remains, to the best of our knowledge, unused some 7 years after the formulation of its supervisory policy in this area.

In addition, intragroup exemptions in the risk-based, large exposure, and leverage frameworks are currently only allowed on a discretionary basis and within a single Member State. For cross-border banking groups, limiting such a provision to a single Member State places an unnecessary restriction on the flow of funds and centralised risk management within a group, particularly in the context of the progress already made towards completing the Banking Union.

Furthermore, inefficiencies in terms of capital allocation are exacerbated by the interaction between intra-group large exposure rules and internal MREL requirements, which creates a "liquidity trap" effect. When parent companies are required to provide capital to BU subsidiaries through internal MREL instruments, this liquidity becomes effectively locked within those subsidiaries due to large exposure limits, preventing optimal capital redeployment across the group even when other entities may need additional resources. For purposes of resolution planning, in countries that apply intra-group exposure limits, banking groups must therefore treat their subsidiaries effectively as external counterparties with no consideration from being part of the same banking group.

Despite attempts by the Commission to address and improve the use of capital and liquidity waivers under Articles 7 and 8 of the CRR in 2018, legislators rejected these measures, not even supporting a role for the EBA to monitor or report on their application. Nonetheless, we welcome that such barriers to the free flow of capital and liquidity has at least been acknowledged in this EU legislature through the Draghi report[17] and by the ECB chair, Claudia

[17] The Draghi report highlighted: *"While the EU collectively spends a large amount on its industrial goals, financing instruments are split along national lines and between Member States and the EU. This fragmentation hampers scale, preventing the creation of large capital pools in particular for investments in breakthrough innovation. It also hampers innovation by creating unnecessary complexity and bureaucracy for the private sector."*

Buch, who has publicly stated an intention of "looking more favourably" at waivers to overcome domestic hurdles and it could be a useful step for policymakers to address.[18]

In terms of enhancing growth and competitiveness, the EU should address persistent obstacles to the free flow of capital and liquidity so that internal capital allocation within banks operating across the EU can function more efficiently, thus allowing resources to flow to where they are most in demand in the economy.

Measures could include:

- Automatic granting of cross-border capital waivers upon an institution's request – at least within the Eurozone - by addressing the current CRR limitation to only allow this within a single Member State. This could be achieved by amending Article 7 so that banking groups are granted cross-border capital waivers for their Banking Union subsidiaries if the simplified conditions[19] provided in CRR Article 7 are fulfilled. While these waivers should apply to entities within the Banking Union automatically and as a matter of routine (i.e. without a discretionary component if the relevant conditions are fulfilled), we consider that similar waivers should also be made available (possibly on a discretionary basis) to banking groups operating across the European Union more generally in recognition of the EU Single Market. Articles 81-88a (covering minority interests) should be amended to allow for the full recognition of qualifying own funds and eligible liabilities (without requiring the discretion of national competent authorities) based on the group's capital requirements in cases where a subsidiary is subject to an Article 7 waiver of its capital requirements.

- As with the waivers in Article 7, groups meeting the requirements detailed in Article 8 should be granted a liquidity waiver on an automatic basis (i.e. by removing Competent Authorities' discretion in the conditions in Article 8) for the Banking Union and also for groups in the wider EU too, where appropriate. The scope of the liquidity requirements (LCR and NSFR) – which are managed centrally for efficiency - should ***only*** be on a consolidated basis within the Banking Union when the relevant conditions are fulfilled, with a similar provision being made available, possibly on a discretionary basis, to banking groups operating across the European Union.

- Failing automatic application of waivers cross border, there should at a minimum be greater flexibility for the Single Supervisory Mechanism (SSM) to grant these waivers across borders without needing a complex joint decision procedure for every case.

- Where a full waiver has been granted, individual entity reporting requirements should also be waived to avoid unnecessary operational burdens and align with the principle of proportionality and the EBA should monitor and report on application of waivers.

- The intragroup exemptions under Article 113(6) CRR should apply automatically whenever the conditions in letters (a), (b), (c) and (e)[20] are objectively met.

- Automatic application – curbing the "host" Member States powers of using supervisory discretion to impose additional or divergent limits on exposures between cross-border

[18] See comment: https://www.ft.com/content/7415ec5e-1559-47f7-bba6-068ff55bdc84

[19] To enable a functioning and automatic waiver mechanism for cross border banking groups under Article 7, conditions (a) and (b) should be substantially simplified by i) eliminating the very vague and broad references to foreseen and to practical impediments which give supervisors excessive discretion; and ii) simplifying the requirement for a formal and unconditional parental commitment, which could be satisfied by the demonstration from the parent undertaking that it maintains robust group-wide capital and liquidity planning under its approved ICAAP/ILAAP framework.

[20] Condition (e) requires that no legal or practical impediments exist that could restrict the prompt transfer of funds or the provision of intragroup financial support. Supervisors interpret this condition broadly to include routine host country prudential measures or hypothetical constraints that do not constitute genuine barriers to intragroup support. Thus, condition (e) should be constrained so that ordinary prudential requirements, domestic buffers or generic supervisory expectations do not disqualify intragroup exemptions.

entities – of the exemption from the 25% large exposures limit set in Article 395 for intragroup exposure, once prudential requirements set out in Article 400 of the CRR.

- Where a bank is subject to SRB oversight, the requirement for internal MREL requirements should not have to apply at the level of all subsidiaries. For subsidiaries of third country groups (which are non-resolution entities), we urge the EU authorities to align more closely with the FSB's standard regarding the 75-90% scaling range for internal loss-absorbing capacity. For Banking Union subsidiaries of Banking Union resolution entities, waivers should be made available to remove the requirement for internal MREL.

Beyond these waivers, there are some additional obstacles that can be solved by harmonizing EU law and combatting national gold-plating. These include:

1. **Diverging Local requirements:**
    - **Systemic buffers applied at national levels:** Systemic Risk Buffer (SyRB), Countercyclical Capital Buffer (CCyB), OSII buffers at subsidiary level. An increase in cross-border activity can lead to increases based on both the jurisdiction of the banks' headquarters and where the activity takes place.
    - **Output floor requirements at subsidiary level:** The output floor can be constraining at subsidiary level even though it may not be binding at Group level.

2. **Expectations of the local supervisor**
    - Local authorities may impose higher solvency expectations or request undertakings to keep capital at the local entity even if not formally required. These "soft constraints" can limit upstreaming or internal reallocations.
    - Some EU NCAs have guidelines that say when and how dividends may be upstreamed (link e.g. to the profitability of the local entity).
    - Most NCAs will do this through "soft" powers however. They will ask banks to operate with a higher local capital buffer than formally required. A bank will not challenge this for two reasons:
        - Supervisory relationship
        - Threat of higher P2R or other "findings".

Finally, we also note that non-prudential barriers such as taxation can play an important role in preventing EU banks from engaging in more cross-border activity. Namely, withholding taxes on cross border payments deter cross border investment and undermine capital market efficiency. Existing withholding tax refund systems in many Member States are cumbersome and costly for investors and result in higher cross border operating costs for banks operating in multiple jurisdictions. Research studies indicate that simply removing the barriers to attaining the correct rate of withholding taxes could boost foreign portfolio investment by more than 7%. The EU's FASTER Directive is a positive step in seeking to create a more harmonised regime for cross border withholding taxes, but without further improvements, it risks not delivering on the objective of increasing cross border investment while imposing significant compliance obligations on intermediaries. There is scope for a more ambitious and consistent framework including a relief at source system that is consistently applied across MS and a common definition of beneficial ownership, as highlighted in our recent response to the Commission's call for evidence on the direct taxation Directives.

Please also consider this answer relevant for Question 32.

19. **Why have EU banks generally relied more on subsidiaries rather than branches and the free provision of services for their cross-border activities within the banking union and the single market?**

	Fully agree	Somewhat agree	Neutral	Somewhat disagree	Fully disagree	No opinion
Incompatibility with internal organisational strategy and budgets					X	
Preference for domestic markets				X		
Preference of Member States/national authorities for subsidiaries, as they bring more employment, tax revenues, supervisory control, etc (moral suasion)	X					
Client preferences (language, trademark recognition)				X		
Lack of trust in deposit guarantee schemes of the host Member States			X			
Group resolution strategy			X			
Non-prudential barriers like divergences in contract and civil laws, labour laws, product features, consumer protection rules, foreclosure rules, etc.			X			
Other operational benefits linked to the legal form of a branch vs. subsidiary						X
Other (please indicate)						

Please explain.

While the EU rulebook does not prevent banks from making use of cross-border branch groups wishing to develop more significant presence, in particular in retail markets, have tended to this via subsidiaries. AFME members' assessment is that this is driven by a clear preference of national competent authorities who are unlikely to practically allow the branchification of any materially sized banking activities.

Additionally, in the absence of a harmonized mechanism that would allow the recalibration of contributions to Deposit Guarantee Schemes (DGSs) (see also our answer to question 40 below), the branchification of a large subsidiary would trigger a major shift in DGS affiliation. This would come with a major direct cost for a bank pursuing such a strategy, given that DGS contributions are not transferable. Also, as a branchification exercise would likely be centralized from the country where the bank is headquartered, it could significantly increase the exposures faced by the local DGS of that country.

We would encourage reflection on the creation of an EU-wide third-country branch, subject to ECB supervision, and with thresholds and prudential requirements which reflect the nature and scale of the Banking Union.

20. **Could you provide a quantitative estimate of the additional requirements and costs (e.g. liquidity requirements, capital requirements, resolution or macroprudential requirements, operational costs in % of balance sheet, etc.) for a banking group that makes use of subsidiaries as compared to the same banking group relying on branches or freedom to provide services?**

Please see our answers to questions 18 and 19.

International level playing field

21. What is your assessment of the level playing field in the European banking market, with regards to the presence of significant non-EU financial institutions?

AFME has chosen not to provide a detailed response to this question. While the presence of significant non-EU financial institutions is an important element of the European banking landscape, AFME does not have access to data that would allow for a reliable and evidence-based assessment of the level playing field. Any high-level assessment without adequate data risks being partial or misleading.

22. According to many analysts, EU banks have lost market share in the provision of investment banking services to EU clients compared to non-EU banks. If you agree with this assessment, what are the reasons for this decline?

AFME has chosen not to provide a detailed response to this question. AFME does not have access to data that would allow for a reliable and evidence-based assessment.

23. To what extent do the following difficulties faced by EU banks hinder their ability to compete globally?

	To a very large extent	To a large extent	Neutral	To a small extent	Not at all	No opinion
Divergent banking prudential rules applying to EU and non-EU banks impact international strategic choices by EU banks						
Supply side factors (e.g. cost competitiveness, innovation, depth of home market).						
EU supervisory practices affect expansion in other jurisdictions						
Other (please indicate)						

Please explain.

Divergent banking prudential rules - Recent developments in the United States provide greater clarity on the likely direction of US prudential rules, even if key elements are not yet final. This improved visibility is welcome. However, it also reinforces the importance of undertaking a careful, holistic and evidence-based international comparison before drawing conclusions about the competitive position of EU banks. Divergences in prudential frameworks between the EU and non-EU jurisdictions—especially the US—can materially influence the international strategic choices of EU banks. This impact is most clearly felt when comparisons focus narrowly on individual components of Pillar 1, without adequately capturing the full capital stack, resolution architecture and business models within which banks operate. Further, we are in the process of assessing the US proposed rules and, should it be necessary, may provide further input at a later date to indicate key areas of comparison we would like the Commission to consider in its final report. A holistic, system-wide comparison is in any case essential to ensure a sound prudential approach while preserving a level international playing field.

Supply side factors - please see our answer to question 10.

EU supervisory practices - EU supervisory rules and practices can pose difficulties for European banks that operate in third countries. This is particularly relevant for internationally active banking groups operating in third countries through subsidiaries, where firms may be subject simultaneously to local prudential requirements and supervisory expectations, as well as EU rules and expectations. EU supervisory practices should therefore be mindful of EU banks operating in third countries as economic realities and impacts of e.g., geopolitical risks can have different impacts in, for example, emerging markets compared to the EU, emerging markets are less mature in ESG terms, where e.g. energy performance certificates are not yet the norm while housing affordability is a priority. Applying EU standards too rigidly does not allow for such differences to be accommodated sufficiently. This is particularly important in jurisdictions that have implemented Basel III or otherwise maintain robust prudential and supervisory frameworks.

Cross-border activities enhance diversification, strengthen earnings stability and, ultimately, support financial system resilience and global growth. EU banks may have a competitive disadvantage when competing with local or non-EU institutions, where current EU rules or supervisory practices do not sufficiently allow for consideration of local market conditions.

Therefore, for those countries that are Basel III compliant, national rules and supervisory criteria in third countries should be taken into consideration rather than automatically applying EU rules globally. Delays in equivalence assessments can hinder EU bank's activities and investments in these countries because they must apply less favorable requirements until an equivalence decision is made. This should be addressed.

24. To what extent do the rules on internal governance and remuneration policies of financial institutions create a competitive disadvantage for EU financial institutions vis-à-vis non-EU financial institutions?

To a very large extent	To a large extent	Neutral	To a small extent	Not at all	No opinion
	X				

Please explain.

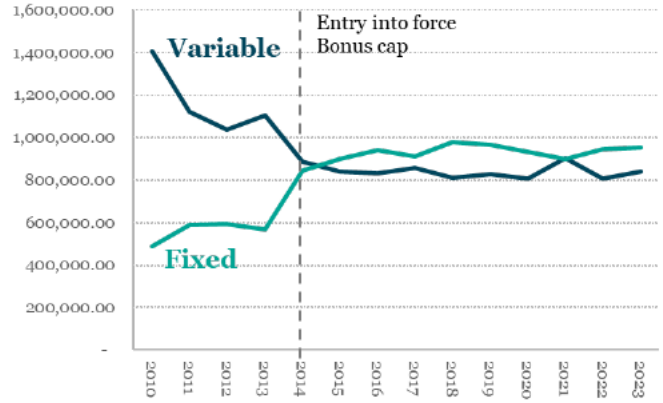
The current framework on internal governance and remuneration is extremely comprehensive and complex, with requirements spanning Level 1 legislation through to granular Level 3 guidelines. While robust governance, including internal control frameworks (L1, L2 and L3), strong risk processes, conduct rules and pay structures are critical for the stability and proper functioning of the EU's banks, there are elements of the current rules which have a significant constraining effect on competitiveness while not essential for global risk management.

Remuneration

The current EU remuneration framework, notably the Bonus Cap, but also rules on identification of in-scope staff, long minimum deferral periods and constraints on instruments awarded, is more restrictive than in other major jurisdictions, where the risk management framework does not show a lower degree of effectiveness.

These rules have led to a trend of higher fixed pay within banks (see graph below), which has two direct consequences. To attract and retain talent, companies offer higher fixed salaries which, first, reduces firms' ability to adjust costs in accordance with group strategic decisions, including in downturns. Second, from a conduct perspective, high fixed pay reduces the relative proportion of remuneration that is performance-based (undermining the calibration of remuneration to goal setting and incentives) and 'at-risk' (i.e. the part of remuneration that is subject to other parts of the remuneration regime, e.g. risk adjustment, malus and clawback).

Figure 1: Average EUR per person compensation of EU27 high earners in CRD institutions



Source: AFME analysis of EBA Reports on High Earners

More importantly, the capacity to increase fixed salaries has limits, with a direct effect on talent attraction and retention, particularly versus non-EU competitors, as well as other industries without comparably strict rules.

No Bonus Cap has been applied in the EU's main competing financial centres – the US, Switzerland, Hong Kong or Singapore (though each has rules or guidance on remuneration practices, generally in line with international standards such as the FSB's Principles for Sound Compensation Practices[21]). The UK recently removed its own Bonus Cap, citing its ineffectiveness and unintended consequences.[22]. In addition, no other parts of the EU financial ecosystem are subject to the same constraints, nor are other sectors such as technology, with which banks are increasingly competing. Furthermore, EU bank remuneration rules despite being misaligned with local legal frameworks - must also be applied to staff in third country subsidiaries and branches of these firms, putting EU banking groups at an additional disadvantage when competing for talent in their operations outside of the EU.

This cumulative framework places EU institutions at a structural disadvantage relative to other firm types in and out of EU and to global competitors in the US, UK and Asia, where remuneration structures are more principle-based, significantly more flexible and aligned with market dynamics.

These constraints:

- Materially affect EU banks' ability to attract and retain talents (notably for capital markets, investment banking, technology-driven roles, and management) in and out of the EU.
- Increase fixed costs and reduce the part of remuneration subject to performance and risk adjustment.
- Generate financial, operational and administrative burdens.
- Generate complexity, lower responsiveness and longer organizational adjustments.
- Hamper cross-border operations, all the more as the implementation of rules may differ from one member state to another one (gold-plating or local interpretation of level 2 and 3).
- Impact the decision of non-EU financial institutions in deciding where to place new hires; and
- Can add complexity to corporate transactions, including acquisitions and IPOs, as they require detailed structuring of remuneration frameworks at early stages of negotiations, potentially creating perceived obstacles to growth.

This is further covered in our answers to questions 88-90.

[21] https://www.fsb.org/uploads/r_090925c.pdf
[22] https://www.bankofengland.co.uk/prudential-regulation/publication/2023/october/remuneration-ratio-between-fixed-and-variable-components-of-total-remuneration

In line with the Commission's objectives, we encourage a review of the EU's corporate governance and remuneration frameworks, with a focus on ensuring they are principle-based and evidence based, proportionate, respectful of the institutional balance, and account for their impact on EU competitiveness, ensuring they support the development of a more integrated, dynamic and globally competitive EU banking sector. We address our specific recommendations further in Q88-91 below.

25. **Do EU-headquartered banks and investment firms face regulatory constraints that hinder their competitiveness vis-à-vis non-EU financial firms? If yes, what are the key constraints?**

Yes. EU headquartered banks and investment firms face regulatory constraints that erode their competitiveness when operating both within and outside the Union vis à vis non-EU firms.

EU bond transparency rules

Banks, acting as market markers, play an essential role in "making markets" and providing liquidity. In particular, a "systematic internaliser" is a committed liquidity provider that dedicates its balance sheet to providing continued pricing and immediacy of execution to its investors' clients throughout the day. By performing this function, banks also act as a "shock absorber" by limiting detrimental price impacts on clients entering or exiting investment positions, which otherwise would be significant if those investors were to execute their investment decisions only through incumbent exchanges.

This "shock absorber" function ultimately benefits end investors, such as pensioners and savers who entrust their money to pension funds and asset managers, by ensuring that the managers of their pension pots and savings obtain the best possible results on their investment decision.

This role banks perform in capital markets is fundamentally different from trading venues as banks utilise their own capital to trade with their clients and in doing so provide a bespoke facilitation role, whereas trading venues only bring buyers and sellers together by providing a matching mechanism. Banks' risk intermediated function is not substitutable and should continue to form part of an efficient, globally competitive EU's market eco-system.

The effectiveness of these risk-intermediating market makers is, however, highly sensitive to the design and calibration of the post-trade transparency regime within which they operate. A well-structured transparency framework must strike a careful balance between delivering meaningful information to the market and preserving the ability of market makers to manage and warehouse risk; if overly rigid or calibrated incorrectly, transparency requirements can materially alter trading behaviour or the withdrawal of liquidity in less liquid instruments, and particularly in bond markets.

Separately, consideration should be given to how the EU transparency regime for bonds compares to third country regimes such as the UK's, and the two regimes' respective market impacts. For example, the EU's regime for corporate bonds is more aggressive than the UK's and EU bank branches operating in London may well be at a disadvantage vs third country bank when trading with third country investor clients. The investor client will know that if they trade with a branch of an EU bank then that trade will need to be published in the EU under ESMA's regime whereas it would not need to be if they trade with a third country bank.

This may well act as a strong disincentive to execute that trade with the EU branch as a consequence of trade details likely to be published within a more aggressive timeframe. The removal of this obligation to double report the trade (in UK ***and*** EU) would both enhance the competitiveness of EU banks operating abroad as well as improve post-trade data quality in aggregate (across EU and UK – where most investors will have access to both).

ESG risk regulatory environment

EU banks also face a significantly more prescriptive regulatory environment for ESG risks than their international peers, which creates a competitive disadvantage. The prudential framework under CRR3/CRD6 singles out ESG risk for standalone treatment that has no equivalent in other major jurisdictions. Banks are required to maintain dedicated ESG risk management processes, produce prudential transition plans, conduct scenario analysis over ten-year horizons, and comply with extensive Pillar 3 ESG disclosure requirements — none of which are imposed at a comparable level of granularity or prescriptiveness by regulators in the US, UK, or Asia. The ECB's supervisory expectations go further still, with a Guide on climate-related and environmental risks that is more detailed than the underlying legislation or EBA guidelines. This layering of requirements diverts resources from the management of risks that are demonstrably material and increases the cost of compliance for EU banks relative to non-EU competitors operating in the same global markets.

Regulatory uncertainty around the territorial scope of MiIFD

Our members are of the view that the territorial scope of the MiFID framework, particularly in relation to investor protection and product governance rules, would benefit from a clarification, for example by means of a MiFID Level 1 recital and/or a Commission's Q&A, **that it only applies to clients established in the EU.**

This means legal certainty that: i) EU obligations are not exported to third countries; ii) firms are not exposed to duplicative/contradictory obligations iii) there is no conflict with third-country supervisory mandates, and (iv) there is no conflict with non-EU courts in local jurisdictions that shall interpret and apply EU legislation as that would risk generating a multiplicity of interpreters of EU law globally.

Legal certainty in this area will advance the EU competitiveness agenda and maintain alignment with the territorial scope of EU law. Reducing the regulatory burden on non-EU investors that would in effect encourage, support and boost retail participation in European capital markets.

MiFID is applicable to investment firms authorised to provide investment services **across the Union**, and we believe this territorial qualifier to be deliberate: the fact that obligations are imposed on EU-authorised firms does not imply universal applicability. In fact, MiFID is designed to operate within the territorial scope of EU law as defined by the Treaties: pursuant to Article 52 TEU and Article 355 TFEU, the Treaties - and the legal acts adopted on their basis – apply within the territory of the Member States, subject only to the specific extensions and derogations expressly provided.

The comprehensive MiFID investor protection framework does not explicitly speak to the application of the obligations on such firms in relation to clients outside the EU.

In addition, the ESMA Q&A on "temporary product intervention measures on the marketing, distribution or sale of CFDs and Binary options to retail clients" provides an unhelpful interpretation that "*both the BO Decision and the CFD Decision apply, **in common with other investor protection requirements in the regime established by MiFID II and MiFIR**, in respect of investment services and activities provided by investment firms or credit institutions authorised in the Union, **without discriminating on the basis of the location or nationality of their clients***".

In practice, EU-authorised firms providing services and products on a cross-border basis to clients established outside the EU often face a heightened compliance burden due to duplicative or contradictory obligations, which in turn undermines their competitiveness, as illustrated in the scenarios below:

- **MiFID investor protection for sophisticated clients.** Investor protection rules continue to apply to highly sophisticated investors falling within the MiFID 'professional' category. These include rules on suitability assessments and best execution. By contrast, in many APAC jurisdictions the prevailing view is that sophisticated investors

are “big enough to look after themselves”. Industry standards rather than prescriptive regulation may apply, which simplifies compliance for wholesale firms. In the U.S., high-level legal requirements on suitability are similarly complemented by industry standards and commercial agreements allowing for reliance on client representations.

- **Spillover of investor protection into cross-border business.** Where an EU-based firm is subject to MiFID rules on e.g. disclosures of costs & charges or on inducements when serving a client in APAC, it will be at a disadvantage when facing local competition in that APAC jurisdiction. This is because the APAC jurisdiction’s rules duplicate the EU firm’s investor protection burden and may be contradictory with MiFID rules. For example, European firms often receive push back from clients in APAC due to the complicated MiFID requirements for client categorisation and disclosures at onboarding that European firms apply. By contrast, local firms will be subject to a single set of rules.

- **Additional MIFID regulatory burden from third-country business.** EU firms’ business outside the EU can nevertheless attract MiFID regulatory burden. For example, for determining their status of systematic internaliser for equities, which attracts considerable pre-trade transparency obligations, EU firms would take into account activity of their non-EU branches, without a further EU nexus.

- **Difficulties for MiFID manufacturers for cross-border business.** EU manufacturers do not have leverage over non-EU distributors to affect the exchange of information that will allow the manufacturers to ensure compliance with MIFID rules. In addition, because extraterritorial chains of distribution (particularly with an APAC angle) can be very long, EU firms’ annual product governance reports have gaps that firms are powerless to address.

Taxation

As explained in our response to Q11 above, the significantly higher corporate tax rates in the EU compared to other global financial centres, and the bank specific taxes imposed in many MS, negatively impact the competitiveness of EU banks.

26. What factors are constraining the ability of EU banks to finance large-scale projects, including in the areas of digitalisation, climate transition and defence, compared to their international peers? In particular, to what extent do differences in profitability, cost structures, balance-sheet capacity, risk-appetite, scale, or regulatory and market conditions explain any observed gaps?

AFME continues to strongly support the EU efforts to simplify banking and sustainable finance-related regulation to support the ability of banks to finance the climate transition (including climate resilience) and defence.

It is essential to support the competitiveness and capacity of banks to provide financing to companies and governments for the very significant investments needed. Profitable banks which are able to maximise their balance sheet capacity will be best placed to provide the financing needed to meet these vital objectives. It also remains essential to proceed with efforts to further develop European capital markets.

Alongside enhancing the competitiveness of the banking sector through banking regulation, the EU should continue efforts to support the projects and solutions necessary for the climate transition and to enhance climate resilience becoming investable, through real economy policy measures, appropriate risk sharing and incentives, and maintaining the ambition of the EU ETS. On the other hand, some climate related measures could constrain financing the

transition such as a specific consideration of climate risk in the SyRB as is currently being put forward by the EBA.

Additionally, there are a number of regulatory constraints further elaborated in Q61 which limit such financing and which need to be addressed. Specifically for large scale financing we note that the CRR3 also unduly penalizes credit insurance, which supports the financing of ca. EUR 350bn of activities in the EU economy including for, infrastructure finance, SME and corporate lending as well as trade finance (roughly 25% of insured assets)[23].

We also note that while the CRR3 allows for modelling for low default portfolios, in practice the supervisory approaches limit banks from being able to do so and therefore limits financing of counterparties that have low defaults.

Another such constraint is the treatment of specialised lending, which supports large-scale projects. In CRR3, AFME strongly supported the transitional input floors for specialised lending (Article 495(b)) and the review being undertaken by the EBA. We would like this review to lead to better calibration and recognition of the relative riskiness of these exposures and permanently embedding a more risk sensitive approach within the CRR. Likewise, a review of the slotting approach for specialised lending is necessary to consider whether more granularity is required, especially for projects with higher credit and low risk.

Digitalisation

27. What are, in your view, the effects of digitalisation on the activities and business model of EU banks in the single market?

Banks continue to be at the centre of a profound digital transformation. Digitalisation is significantly reshaping the activities and business models of banks in the Single Market. It impacts all facets of a bank—including product and distribution, corporate and investment banking, transaction services, platforms, operations, risk/compliance, treasury/ALM — affecting both customer-facing and internal functions. At the same time, digitalisation is driving a structural shift in workforce skills, requiring continuous upskilling and reskilling, particularly for segments of the workforce more exposed to technological change.

Investment Banking & Capital markets	As use of DLT goes beyond experimentation and starts being used at scale its positive effects and potential benefits become more visible. DLT offers the promise of important benefits that can help achieve SIU objectives, through enhancing efficiency, connectivity and resilience of European capital markets, as well as the possibility of enhancing access to market-based financing for corporates. DLT can streamline issuance processes, automate post-trade processes, reduce settlement risks, and enable more efficient cross-border payments. If regulation moves towards more technology neutrality and distributed models, and allows for further interoperability, DLT could act as the basis for a new market architecture that promotes innovation, connectivity, resilience and competition. The ECB work on Pontes / Appia and to ensure collateral eligibility of DLT-based securities will also be a key enabler for these benefits.

[23] See ITFA-IACPM bank survey 2023 showing volumes of lending facilitated by credit insurance (survey takes place every 2 years and will be redone this year). Credit insurance mitigates credit risk by allowing banks to partly insure itself against a default of a specific counterparty, which frees up risk capital for other lending

Corporate Bank / SME customers	Corporates / SMEs rely on digital invoicing, data-driven credit and platform-mediated acceptance, leading to lower cross-border friction**.** Corporates increasingly use digital rails for liquidity, collections and treasury. DLT will be also beneficial specifically for corporates with use cases including more efficient international / cross-border payments, involving stablecoins or tokenised deposits; collateral management and intraday liquidity management; Trade finance; streamlined and automatised issuance processes for fixed income instruments issued by medium sized companies, for which direct access to capital markets is currently too expensive.
Product, Channels & Distribution	New technologies can allow both incumbents and new entrants to provide new products, increasing choice and competition. Greater access to data reduces the information barriers for cross-border investments. Such access needs to happen on a level playing field — ensuring reciprocal data on voluntary basis data-sharing, equivalent technical feasibility, and comparable data quality standards across all players, including BigTechs and FinTechs. Investors access to financial services is being increased through digital technologies, as well as their ability to access education resources and disclosures in digital form. Data availability and AI technology supports personalisation of financial services. Digitalisation is having a particularly profound impact on banks operating as manufacturers of structured financial instruments. Enhanced data granularity, rule-based product design and automated product-governance controls allow banks to embed regulatory requirements directly into product creation workflows—covering, for example, target-market criteria, cost transparency, performance simulations and pre-trade compliance checks. This increases consistency in disclosures (under MiFID II, PRIIPs and Prospectus Regulation), reduces operational risks and improves auditability.
Platforms, IT Architecture & Core Infrastructure	Adoption of cloud technology allows financial institutions more agility in their innovation strategies (avoiding heavy up-front investments) to remain competitive and to leverage data and AI. Cloud, APIs, digital identity, shared fraud/AML utilities underpin scaling and EU-wide architectures. Realising the full potential of cloud adoption requires, however, a robust governance framework ensuring data trustability, clear liability allocation across the cloud value chain, and banks' awareness and control over data location and processing conditions, regardless of jurisdiction. Strengthening trust in cloud infrastructures is not a constraint on innovation, but rather the foundation for broader and deeper adoption across the financial sector. Decentralised infrastructures can contribute to greater resilience by removing single points of failure.
ALMT & Cash Management Business	Digitalisation has been leveraged by banks to upgrade their ALMT and cash management systems to allow availability 24/5 and increasingly 24/7; at the same time legacy systems have been reviewed to reduce costs and increase efficiency. Banks are developing new forms of commercial bank money on chain. Eventually, banks will use internal DLT if deposit tokens become a new form of tokenized commercial bank money. Importantly, banks are working to make systems ready for wCBDC usage and to prepare systems for the use of stablecoins.

Data & AI	Many financial institutions have been integrating artificial intelligence (AI) into their operations across a wide range of business functions and use cases. The use and application of AI tools and systems are diverse and include enhanced and more tailored customer experience and improved ability to detect anomalies, risks or frauds; automated processes and improved trading strategies; support in complying with regulatory requirements and risk management processes in particular, firms have utilized “traditional” forms of AI and machine learning for many years, and consequently have developed governance processes to oversee, manage and monitor their application of AI, in accordance with their existing regulatory obligations. Adoption at large scale of AI could make critical functions increasingly reliant on such technology and be accompanied by a possible concentration of AI suppliers, requiring effective risk management. While the AI Act represents a positive step, it should be applied in a proportionate manner (e.g. with regard to the high-risk use case of creditworthiness assessment and credit scoring, it should apply only to those parts of the lending process that effectively impact individuals’ fundamental rights; approved models used for prudential purposes to calculate capital requirements should be excluded from the scope of high risk AI systems). Moreover, it should be supported by precise definitions (e.g. “AI system”, clearly excluding traditional statistical models such as linear and logistic regressions).
Risk & Compliance	Digital transformation strengthens risk controls and regulatory compliance for instance by supporting more effective AML/CFT monitoring and KYC onboarding, improving fraud detection, and greater consistency in conduct risk management. At the same time, digitalisation also introduces the need to develop tools to manage new risks linked to cyber security, digital resilience and cyber fraud. the risk of exclusion for clients with low digital literacy, increased exposure to cyber fraud. These developments call for updated supervisory approaches, reinforced consumer-protection safeguards and a balanced regulatory framework supporting innovation while ensuring trust.

28. In the context of the increasing digitalisation of financial services, what do you consider could enhance confidence of clients in digitally provided investment products and services, thereby influencing the dynamic of new business models?

Client confidence in digital investment services hinges on robust governance, transparency, thorough testing, appropriate safeguards, and clear communication of benefits and risks. Essential trust-building measures include clear risk management frameworks, strong operational resilience, and adherence to privacy and data requirements.

In all these areas the EU framework has developed strong safeguards. The regulatory framework for digital finance has been developing in two dimensions: vertically, with financial sector specific rules; horizontally, with frameworks affecting market participants across sectors. This rapid development creates the challenge of ensuring that the intersections between the various initiatives promote a coherent framework. Experiences in recent months have shown that this can be a challenging objective to achieve. Inconsistencies and overlaps can undermine the efficiency and clarity of the overall framework, undermining its ability to promote trust among all market participants. Regulatory clarity justified financial sector exemptions and consistency are essential. For instance:

- DORA's scope and objectives overlap with the Cyber Resilience Act. The financial sector should be exempted from the scope of the CRA in order to avoid duplication with the DORA framework.

- The supervisory architecture for AI is expected to be a cobweb of financial services and AI Act rules and authorities. As highlighted by the European Central Bank in their recent Opinion on the AI omnibus, this creates the risk of overlapping or even conflicting guidance.

- Risks of financial sector inclusion in the Cloud and AI Development Act, with the uncertainty regarding the impact to financial sector cloud and AI strategies.

- Divergent interpretations of GDPR across Member States and inconsistencies between GDPR and the AI Act — for instance regarding transparency and automated decision-making — create legal uncertainty that may undermine trust in digital financial services.

Measures to strengthen confidence also need to go beyond the financial services area. For instance, as fraud increasingly originates outside the payment layer, reinforcing preventive obligations for platforms and telecommunications actors, alongside payment service providers, would enhance consumer protection and trust in digital channels.

As DLT use is scaling up, trust in the ecosystem will be supported by availability of wCBDC on market DLT as most trusted cash leg, by the-definition of eligibility criteria and governance for critical financial market infrastructures on DLT. Moreover, eligibility of digital assets as collateral will strengthen investor confidence when they hold DLT-based securities.

Banks in Europe must align faster on a solution for tokenized commercial bank money, ideally a form of deposit tokens accepted in all European jurisdictions and on the appropriate DLT infrastructure(s) to be used.

The replication of the two-tier system on DLT must be of highest priority to guarantee the financing of the European economy. If not, private solutions will develop that lead potentially to retail and corporate deposit outflow, reducing availability of credit and increasing cost of credit.

A secure and reliable digital identification is another key ingredient for strengthening confidence. The upcoming EU Digital Identity Wallet (EUDIW), enabled by eIDAS 2.0, will provide harmonised, high-assurance identity verification across the EU. This will significantly reduce identity-fraud risks and enhance clients' sense of security when accessing digital financial services.

More broadly, as Fintech and BigTech become more active in providing a range of financial services, it is important that they comply with the high regulatory standards applied by financial institutions, not only to ensure a level playing field, but also to avoid situations where looser standards for some actors lead to a lower level of protection for consumers and customers, financial stability risks and reduced confidence across the entire market.

Trust in digital financial services also depends on the responsible design and deployment of digital tools. This includes ensuring high standards of data quality, transparency in the use of data, and the ethical use of artificial intelligence. In particular, it is important that algorithmic decision-making processes are explainable, avoid discriminatory outcomes and are supported by appropriate human oversight.

In addition, user interfaces should be designed in a way that supports informed decision-making and avoids practices that could unduly influence customer behaviour (dark patterns), particularly in the context of investment services.

29. **Are EU banks investing enough in digitalisation of their operations and services, including in comparison with their international peers and with other EU business sectors? Please explain, in particular in case the answer is 'No'.**

EU banks are making significant efforts and investments in the digitalisation of their operations and services. However, structural and regulatory factors may limit the relative impact of these investments compared to international peers and large digital players.

Among the structural factors, the relatively smaller scale of EU banks can be a significant factor in limiting the ability to mobilise the large resources needed to undertake a shift towards digital technologies. Fragmented markets, legacy infrastructures, and complex regulation—slow transformation in Europe compared to larger, more uniform jurisdictions. In 2024, the largest six US banks invested a total of €56.4bn in IT, almost four times as much as the six largest EU banks[24], according to JP Morgan estimates. Furthermore, global hyper-scalers like Amazon, Alphabet, Microsoft, and Meta operate on different scales, with planned investments in AI infrastructure for 2026 exceeding $700 billion. This creates a widening technological gap in processing power and data capabilities, making it increasingly difficult for European banks to compete on speed, personalisation, and service quality.

One of the obstacles to digital transformation can be the maintenance of legacy systems with Boston Consulting Group noting that over 60% of banks' technology budgets are absorbed by "run the bank" maintenance. This, compounded by the financial burden of implementing continuous complex regulatory reforms—such as DORA, the Cyber Resilience Act, the AI Act, and PSD3—severely limits the capital available for genuine innovation and adds to a lack of regulatory stability in the EU.

In addition to the overall level of investment, regulatory complexity may also affect the timing, sequencing and allocation of digital investments. Where requirements are not sufficiently aligned across frameworks, banks may need to prioritise compliance-driven implementation over strategic transformation initiatives, potentially reducing the overall effectiveness of digital investment programmes.

In this context, ensuring better coordination and alignment across regulatory initiatives would support more efficient deployment of resources, while maintaining high standards of security and resilience.

In addition, asymmetries in data access and ecosystem control — particularly in mobile payments and platform-based environments — may reinforce structural advantages of large digital platforms, affecting competitive dynamics.

Among the regulatory factors the current prudential treatment of software in the EU is particularly relevant. Conservative capital treatment of software investment creates structural disincentives for modernisation, as software is often deducted from regulatory capital or amortised in ways that do not reflect its value.

The nature and the use of software have fundamentally changed over the past 20 years; it now plays a central role in driving innovation and operational efficiency. Software is a strategic asset for banks, enabling them to serve clients where and when needed, to manage complex portfolios, to develop cyber security measures, and to deliver digital services competitively. Software displays some special characteristics, namely its capacity to generate income, its key importance in banking operations, and in facilitating the implementation and embedding of regulatory requirements. One could say now that "software is as necessary as an asset to produce banking services as a factory to produce cars".

Despite its pivoting role, the prudential treatment of software still differs across major jurisdictions.

In the EU, banks must follow the "prudential amortisation" approach, where banks partially

[24] By market capitalisation

deduct activated software investments from their Common Equity Tier 1 (CET1) capital : the positive difference between accounting and prudential amortisation is deducted, and the remaining amount risk-weighted. This partial deduction is not necessarily risk-adequate and increases the cost for EU banks to acquire software and reduces the capital available for lending and investment. The current EU capital treatment presents a competitive disadvantage for IT investment in the EU.

By comparison, in the US banks are generally permitted to recognize 100% of software assets on their balance sheets without a corresponding regulatory capital deduction. This is based on U.S. accounting rules (US GAAP) that allow banks to classify software within tangible assets, more specifically under “Property, Plant, and Equipment”. This classification enables banks to avoid the automatic deduction associated with "intangible" assets required by the more rigid interpretations of Basel standards. Similarly, in Switzerland banks can classify software as part of tangible operating assets in their accounting, which exempts them from the deductions applied to intangible assets. The economic rationale is that the value of software is releasable also under stressed conditions.

Finally, it is worth recalling that non-banking entities do not have such regulatory constraints to invest in IT.

A legislative change is therefore urgent in the context of pressing IT and cybersecurity challenges (as pointed by EBA and ECB) and the corresponding investment as well as the digital transformation of the banking business, taking into account the growing competition among international banks, fintechs, GAFAs, and non-banks in general.

To enhance competitiveness, the EU should:

- Allow full exemption from deduction to support bank digitalisation as it is done in the US.

- Software should be treated as an asset subject to appropriate risk weighting (100% under article 113(5) CRR).

- Exempt the financial sector from horizontal regulations where there is duplication, such as the Cyber Resilience Act, as this results in unnecessary cost allocation and compliance burden.

30. Do you expect in the near future the emergence of significant new players in the provision of financial services within the EU, such as non-financial conglomerates, FinTechs, or BigTech companies? If yes, what would this mean for traditional banks? If yes, what would be the impact on households and businesses?

New financial services players—FinTechs, BigTechs, tech providers, and non-financial conglomerates—are already well-established across the EU and will continue to expand their presence. These entrants excel in agile development, data-driven personalization, user-centric design, and seamlessly embedding financial services into broader digital platforms. Their ability to scale quickly across the Single Market, supported by advanced data-driven capabilities and large existing customer ecosystems, is set to intensify competition and stimulate innovation across the sector with the following policy considerations:

- FinTechs typically focus on niche services (e.g., payments, identity verification, analytics, credit scoring), often complementing banks rather than replacing them. Collaboration between banks and FinTechs is commonplace, with many digital solutions co-developed or integrated, and some FinTechs partnering with or being acquired by traditional banks.

- BigTech firms generally operate at the interface layer—offering digital wallets or device-level access—without controlling core banking or payment infrastructures.

- Such players have the ability to attract large customer bases and direct the customers to the payment instruments that they prefer. This could lead to deposit and liquidity outflow for banks in Europe.

- Non-financial platforms (such as mobility, e-commerce, and logistics) increasingly integrate financial services to support their main activities and enhance customer retention.

- Technology is increasingly used by financial services users, even where the provider does not explicitly offer financial services. As an example, consumers are more and more relying on LLMs to compare and prepare financial decisions (investments or insurance coverage).

The emergence of new players is particularly visible in the digital assets space, where non-banks, big techs and others are increasingly active and stablecoins are gaining relevance, especially following recent regulatory developments such as the GENIUS Act in the U.S. To ensure banks are able to participate in the digital asset market on a level playing field with non-bank players, it is crucial that the EU prudential (interim) treatment for crypto-assets (Art. 501d CRR) is made less punitive and that the EU works towards a more risk-appropriate Basel treatment as the Basel Committee reviews its standards over 2026. AFME has previously set out detailed changes the EU should make to its interim treatment and changes that needs to be introduced to the Basel Standards (see: AFME Response to EBA Consultation paper on RTS on the calculation and aggregation of crypto exposure - April 2025).

Banks face both competitive pressure and opportunities, remaining central to financial intermediation while needing to modernize systems, adopt cloud architectures, and responsibly deploy AI. To avoid becoming back-end regulated infrastructure providers, with customer interaction increasingly mediated by front-end platforms, banks need to accelerate their own transformation towards more open and modular architectures, platform-based operating models and Banking-as-a-Service propositions that allow them to remain central in digital value chains while leveraging the regulatory credibility and consumer trust that licensed institutions uniquely possess.

Public-private initiatives (like BIS Project Agorá) demonstrate joint exploration of new technologies (e.g., tokenized deposits, programmable settlement) to upgrade financial infrastructure without replacing core monetary systems.

Households and businesses benefit from improved convenience, reduced transaction friction, better data insights, and more integrated digital experiences, especially through embedded finance solutions. At the same time, the coexistence of banks, fintechs and BigTech companies under heterogeneous regulatory regimes risks producing an uneven landscape of consumer safeguards. Clients engaging with non-bank providers may not always benefit from the same level of protection that applies to bank-provided services, especially in areas such as deposit safety, complaints handling, governance requirements or conduct-of-business obligations.

Innovation strengthens competition and broadens choice for consumers and merchants, notably in payments, where multi-rail solutions increase resilience and decrease dependency on single providers.

These benefits depend on proportional oversight—ensuring operational resilience, avoiding excessive reliance on global tech firms, and upholding data protection, cybersecurity, and systemic stability.

With fraud increasingly originates outside the payment layer, often through online platforms and electronic communications, highlights the need of adequate oversight for all actors. The emergence of agentic commerce may exacerbate this need.

Policy should focus on maintaining a competitive, multi-provider environment; ensuring resilience at infrastructure and data layers; and enabling cooperation between banks and technology providers for an open, secure, and globally competitive financial system.

For traditional banks, the expansion of new players may intensify competitive pressures and reshape value chains, especially in payments and data-driven services. This context reinforces the importance of ensuring a level playing field, including effective enforcement of the DMA in mobile payments and avoiding regulatory asymmetries that could structurally disadvantage banks. On this note, the digital euro project, if not carefully calibrated and designed, may entail unintended consequences for EU banks, which are mandated to intermediate the digital euro: for instance, if banks weren't able to cover adaptation, implementation and running costs, if an unsustainable, non-market-driven compensation model were to be imposed, traditional banks might be pushed out of business. On top of that, non-EU Bigtech, who can run a segment of their business at a loss, would easily make inroads in the distribution of the digital euro. In the context of the digital euro project, it is essential to ensure that its design and implementation model are carefully calibrated so as to avoid that adaptation, implementation and operational costs, together with a potentially non-sustainable and non-market-driven compensation model, undermine European banks' innovation capacity, notably in light of the ongoing investments in pan-European payment solutions. At the same time, it is crucial to prevent competitive distortions that could favour the entry or expansion of non-EU players (including BigTech, potentially involved in distribution), with significant implications for market governance, supervision, and ultimately the sustainability of traditional banks' role as intermediaries. This makes it even more important to recognise the strategic contribution of private solutions in building a pan European, interoperable infrastructure, leveraging what already exists, avoiding duplication of investments, and ensuring a balanced, future proof approach to European sovereignty.

The development of Open Finance (FIDA), mobile payment ecosystems and platform-based models may reinforce the role of non-bank actors, particularly where asymmetries in data access or control over digital interfaces exist. On FiDA, AFME – together with a broad coalition of trades representing banks, insurers, asset managers – has consistently highlighted that without a comprehensive ex-ante analysis on the scale of the proposed data sharing requirements and anticipated customer demand for data sharing, it remains challenging to foresee the potential of FiDA to help deliver on the key EU objective of competitiveness. In fact, rather than reinforcing Europe's innovation capacity, FiDA risks diverting resources away from productive investments at a time when the EU should be focused on strengthening its global competitiveness. Therefore, we have recommended the withdrawal of the FiDA proposal. In addition to potential competitive implications, it will also be important to monitor where technology offering such as LLMs cross the line into regulated financial services such as investment advice to ensure appropriate investor protection.

31. How should the bank regulatory framework and supervisory practice adapt to the changes in the banking sector triggered by digitalisation?

The bank regulatory framework and supervisory practice should adapt to digitalisation by strengthening coherence, proportionality and consistency across the EU, while preserving competitiveness, attractiveness for investors, and innovation capacity.

Adaptations / actions should include the following:

- Regulation should reduce unnecessary administrative burden and avoid overlaps across frameworks, particularly in areas such as data protection and digital regulation (e.g. DORA and Cyber Resilience Act). It is important to recognise that sector-specific frameworks such as DORA already provide a comprehensive approach to ICT risk management and operational resilience for financial institutions. The introduction of additional overlapping horizontal requirements may lead to duplication and inefficiencies, without proportionate benefits in terms of risk mitigation. In the cloud sector, for example, DORA and the ECB Guidance on Outsourcing Cloud Services already address ICT third-

party risks, including the security and resilience of cloud service providers. The upcoming Cloud and AI development Act (CADA) framework could introduce additional requirements for the financial sector that may overlap or conflict with existing sector-specific regulations. Further clarification on the interaction between the proposed Cybersecurity Act II (CSA II) supply chain framework and DORA would also be beneficial, as the absence of explicit cross-references increases legal uncertainty.

- A more risk-based approach should be promoted, with requirements calibrated to the risk of the activity, and with clearer, more harmonised interpretations to reduce fragmentation and legal uncertainty across Member States. To that end, supervisory convergence should be reinforced. Divergent national interpretations of EU rules (e.g., GDPR) create uncertainty for cross-border activity in the Single Market; a stronger role for EU-level coordination and more consistent supervisory practices would support a truly pan-European digital banking market. In particular, where artificial intelligence is used, supervisory approaches should ensure that requirements are calibrated to the specific characteristics of the use case and avoid capturing well-established and transparent models. At the same time, it is important to ensure that AI systems are subject to appropriate safeguards in terms of explainability, fairness and human oversight, to prevent unintended discriminatory outcomes.

- Ensure coherent and uniform application of EU digital financial regulations across all Member States to maintain a level playing field and facilitate cross-border innovation.

- Encourage the timely adoption of technical guidance during the implementation periods of digital regulations. Technical guidance should be published with sufficient time periods for adoption without harming compliance program timelines. Guidance being produced within months of compliance deadlines or afterwards has been a consistent theme across multiple EU legislative files, which damages the reputation of policymaking in the EU.

- Horizontal digital legislation produced by non-financial sector regulators often includes Expert Groups that do not include financial sector participants or financial regulators. Guidance therefore often does not consider financial services or recognise equivalence to pre-existing financial regulation. Greater levels of engagement or consultation could encourage better development of guidance that is easier to interpret for intangible services.

- More broadly, regulatory frameworks should support the development of emerging digital market segments. MiCAR contribute to legal certainty. The review of the DLT Pilot regime under the ongoing Market Integration Package (MIP) is a positive step in this direction and could contribute to addressing some of the current limitations, thereby enhancing the effectiveness and scalability of tokenised market infrastructures in the EU.

- Modernize supervisory capabilities by strengthening technical expertise and adopting data-driven, risk-based, and technologically informed approaches to oversight. Supervisory practice must also evolve toward real time, data driven oversight. Traditional point in time inspections are no longer sufficient when customer interactions are digital, behavioural data are continuously produced, and risks can materialise within seconds. This shift also requires supervisors to strengthen their own technological expertise, invest in SupTech tools, and ensure adequate coordination among the ECB/SSM, EBA, ESMA, EIOPA and national competent authorities.

- Where non-financial services providers play a significant role in the value chain as service providers to financial institutions, ensure that those tech providers are

subject to clear information and transparency requirements towards their clients. This is essential to enable financial entities continue to assess IT and third-party risks and fulfil their own regulatory obligations.

- Supervision of digital finance and IT risk management should be simplified to reflect the more complicated regulatory framework and financial institution compliance. The ECB IT Risk Questionnaire is overly prescriptive and complex and its overlap with the DORA Risk Management Framework results in unnecessary paperwork. Compliance additions of threat-led penetration testing, cyber stress testing, cyber incident reporting and additional guidance have not been reflected in the supervisory burden for IT risk management.

- Regulators must be vigilant to supervise all new forms of payment services and payment instruments to avoid potential negative impacts on deposits and liquidity in Europe.

- Promote structured and ongoing dialogue between public authorities and the financial sector to anticipate risks, address emerging challenges, and keep supervisory expectations up to date.

- The EU should ensure that the development of common enabling infrastructures and initiatives — such as European Digital Identity — is done ensuring interoperability with existing infrastructures and banking security and authentication requirements, so that new digital frameworks strengthen trust without disrupting established well-functioning procedures.

- Preserve and foster trusted international technology partnerships, ensuring secure, rules-based access to critical services like cloud, cybersecurity, AI, and analytics while upholding European standards for resilience and data protection. The financial sector supports the development of a competitive EU-based cloud computing services market; at the same time any use of sovereignty requirements should be avoided if it requires banks to rely upon third parties, services and technology that are less mature, resilient and competitive than alternatives and to a mandated timeline that does not take into account each bank's differing holistic risk positions. Financial institutions are already subject to a comprehensive framework for ICT third-party risk management under DORA and the ECB Guide on Outsourcing to Cloud Service Providers. In this context, any potential use of sovereignty-based requirements should carefully consider their impact on operational resilience, cost efficiency and technological availability, avoiding situations where financial institutions would be required to rely on less mature or less competitive solutions. At the same time, any framework governing access to critical technology services - regardless of the provider's jurisdiction - should ensure enforceable guarantees of trustability, clear liability allocation and operational continuity. The issue is therefore not sovereignty per se, but the definition of minimum conditions under which critical dependencies can be safely undertaken. Where such guarantees cannot be contractually or jurisdictionally ensured, the resulting risks may be structural and irreversible in nature, and should therefore be treated as material risks, rather than being addressed solely through conventional operational risk mitigation or as mere compliance considerations.

- The framework should ensure a level playing field in digital ecosystems. This includes addressing structural asymmetries linked to platforms and mobile payments (including effective enforcement of the DMA where relevant) and ensuring balanced competitive conditions between banks and other providers of financial services. To ensure trust and avoid regulatory arbitrage, digital providers outside the banking perimeter offering bank like services should carry responsibilities proportionate to their impact on consumers and financial stability,

including in areas such as disclosures, governance standards and liability regimes.

- Overall, build a future-ready supervisory framework based on coherent rule application, modern supervision, strong public-private cooperation, structured innovation support, global leadership in standards, and trusted international partnerships to enable safe, resilient, and competitive digital banking in Europe.

- Greater regulatory clarity on cross-border data transfers to third countries would also be beneficial, as a more harmonised and predictable framework could enhance the international competitiveness of EU banks, which currently face more stringent requirements compared to non-EU competitors.

Section 2 – The single market and the banking union

The impact of prudential requirements on market integration

32. What are the benefits and the limitations of the current regulatory framework in terms of capital and liquidity requirements allocation within a banking group? What are the main concerns with the possibility to manage capital and liquidity at group level?

Please see our response to question 18.

33. What are your views regarding the most efficient way of applying prudential requirements within EU cross-border banking groups?

	Fully agree	Somewhat agree	Neutral	Somewhat disagree	Fully disagree	No opinion
Continue the current approach where prudential requirements are applied, as a rule, at both the consolidated level and at the level of every legal entity					X	
Prudential requirements should only be applied at highest EU consolidated level of the banking group	X					
Ensure adequate prudential requirements at the level of legal entities, while ensuring more flexibility in centrally managing resources at group level, with commensurate safeguards for financial stability risks			X			
Other (please indicate)						

Please explain and, if possible, indicate if the most efficient way of applying prudential requirements differs per requirement (e.g. Liquidity Coverage Ratio, Net Stable Funding Ratio, capital, minimum requirement for own funds and eligible liabilities (MREL)).

We would support the application of prudential requirements with EU cross-border banking groups at consolidated level as per international requirements. This is relevant for the output

floor, leverage ratio, NSFR and Liquidity buffer. Notably, the UK has applied the output floor at consolidated level for international groups**.**

34. What regulatory measures could facilitate or improve efficiency for cross-border EU banking groups? What safeguards would be necessary to preserve resilience and resolvability, and provide reassurance to all relevant Member States in case of distress/failure?

Several targeted regulatory measures could materially improve efficiency and support the completion of the Banking Union.

First, as set out in detail in Q18 with proposed policy suggestions, greater and more consistent use of capital and liquidity waivers within the Banking Union would reduce the trapping of resources within national subsidiaries. Although the CRR provides for such waivers, their application remains limited in practice—particularly for cross-border groups—undermining the effective pooling and allocation of capital and liquidity at group level. Likewise, the Commission should consider the local application of intragroup exemptions, internal MREL requirements and large exposure limits in the same vein.

Second, further simplification and a more risk-based approach under the Single Supervisory Mechanism (SSM) would improve predictability and reduce duplication for cross-border groups. Differences in supervisory expectations and national practices continue to generate operational complexity and compliance costs, even for institutions directly supervised by the ECB.

Third, progress toward a truly integrated resolution framework would enhance efficiency. Remaining national discretions in resolution planning and execution, as well as uncertainty around the use of resolution financing tools, continue to incentivise internal ring-fencing and constrain cross-border business models.

Fourth, addressing fragmentation in deposit protection arrangements, would strengthen confidence in cross-border banking structures and reduce incentives for national barriers.

Finally, greater consistency in the application of the Single Rulebook is essential. Divergent national transposition and interpretation of EU banking legislation continue to create frictions for cross-border groups and dilute the benefits of operating within a single supervisory and regulatory framework.

Taken together, these measures would help unlock the full benefits of the Banking Union by enabling cross-border banking groups to operate more efficiently, allocate resources more effectively, and better support growth and financial integration across the EU.

With regards to safeguards

Very extensive safeguards are already in place to support resilience and enhance resolvability, particularly with respect to GSIBs and large banks. We also note the progress to enhance the resolvability of small and mid-size banks through the review of the Crisis Management and Deposit Insurance (CMDI) framework.

Credible recovery and resolution plans, sufficient levels of loss absorbing and recapitalisation capacity at the institution level to facilitate a resolution, Deposit Guarantee Schemes and clear creditor hierarchy, and the Single Resolution Fund remain key safeguards. Strong trust between home and host authorities, effective planning and communication (including through crisis management groups for G-SIBs) and credible liquidity support are further key factors to facilitate cross-border consolidation.

We consider that there is significant scope to enhance these safeguards through increased transparency and harmonisation, and by tackling complexity and addressing barriers to further

integration, as well as introducing efficiencies for firms and resolution authorities. We believe that these objectives would support protection for taxpayers and depositors, and confidence in the single resolution mechanism. At the same time, these mechanisms should not distort the level playing field to ensure a competitive banking landscape in the longer term.

To complement wider measures to support efficiency, we recommend enhancing the effectiveness of the above-mentioned safeguards in line with the following principles:

- Contributions to mutualised funds should align with the risk that each institution poses to the fund. Crucially, the MREL levels of each bank should be taken into account when determining contributions since MREL will be used before there is any use of mutualised funds. This should not prevent reforms to MREL as set out in our response to Questions 59 and 77.
- The use of common or mutualised funds should be subject to a consistent and harmonised approach across EU member states to minimise risks to taxpayers, avoid moral hazard and distortion of the level playing field.
- The resolution framework should be applied consistently, including through the availability of resolution tools, to ensure that all banks, regardless of their size or entity location, can fail in an orderly manner, have a plan in place to provide for this and have the resources to support it.
- Strong cross-border cooperation is crucial to minimise fragmentation, both within the EU and with third countries, and to build trust between resolution authorities.

Market Consolidation

35. Do you consider that the EU economy benefits from the presence of large, cross-border banks active across the single market?

- ○ **Yes**
- ○ **No**
- ○ **No opinion**

Please explain.

Yes, we have consistently argued that the EU economy benefits materially from the presence of large, well-capitalised, cross-border banks operating across the Single Market, provided that the regulatory and supervisory framework allows them to operate as genuinely integrated groups.

Large cross-border banks play a central role in financing the EU economy, in particular by:

- Supporting cross-border trade and investment by corporates and SMEs
- Providing pan-European financial services to firms operating in multiple Member States; and
- Facilitating the efficient mobilisation of savings and their allocation to productive investment across the Single Market.

These institutions are uniquely placed to support EU-wide economic priorities—including competitiveness and the green and digital transitions—because of their scale, diversification, and ability to operate seamlessly across jurisdictions.

We would also emphasise that cross-border diversification can enhance financial stability, benefiting the EU economy. Large cross-border banks:

- Diversify risks across geographies and business lines.
- Are better positioned to absorb localised shocks; and
- Can continue to provide credit during periods of stress in individual Member States.

Large cross-border banks can also deliver efficiency gains and economies of scale that ultimately benefit households and businesses through:

- More competitive pricing of financial services
- Broader product offerings; and
- Greater investment in technology and innovation.

While we clearly see benefits from large cross-border banks, we have consistently stressed that these benefits depend critically on further integration of the banking framework. As a result, the EU currently captures only a fraction of the potential gains from cross-border banking integration, despite the presence of large banking groups. Addressing these structural barriers is therefore essential to maximise the contribution of cross-border banks to EU growth, resilience, and competitiveness.

36. The Draghi report argues that banks need scale to be competitive. Is market consolidation a good way forward to achieve scale in the banking industry? Which actions should be taken at EU level to facilitate EU banking groups wishing to operate cross-border to do so?

AFME does not advocate for consolidation as a policy objective in itself, however we do support the EU reviewing the provisions and level 2 requirements introduced in CRR3 with regard to M&A to ensure they facilitate rather than hinder M&A. In line with our recent report on the Banking Union, it is an important policy area to consider in this context – cross-border banking M&A has consistently declined over the last two decades, limiting consolidation and efficiency gains.

Dealogic data on M&A transactions included in our report show an underwhelming record for banking sector M&As: banking is the economic sector in the EU where it takes longer to complete M&A with 285 days between announcement and completion dates on average for the last three years (2022-2024). Furthermore, the time it takes to complete a banking M&A has increased by more than 100 days since 2014 (prior to the start of the BU). The data also shows that it takes significantly longer to complete a banking M&A in the BU compared to any other global banking competitor region.

Cross-border mergers remain rare not because of lack of interest, but because the legal and supervisory environment disincentivizes them:

- Ring fencing practices trap capital and liquidity inside national subsidiaries
- Discretionary national options and divergences that create regulatory uncertainty
- Limited cross-border waivers, even within the Banking Union (e.g. capital, liquidity, large exposure waivers)
- Multiple layers of requirements in resolution and supervision that add cost and complexity
- New RTS and ITS under consideration by the EBA[25] have the potential to make M&A more burdensome and gold plate requirements further, for instance by requiring duplicative and excessive reporting and notification requirements, in particular for intragroup transactions

These barriers result in higher funding costs, reduced efficiency, and limited ability to build scale organically. Therefore, consolidation can be part of the solution, but only once structural obstacles are addressed. The EU should focus on creating conditions for scale, not mandating the outcome.

[25] RTS on acquisitions in credit institutions and EBA draft technical standards on prudentially material transactions under the Capital Requirements Directive were consulted on by 18 September and 5 March respectively (AFME responded to both consultations).

Non-prudential barriers to market integration

37. What are the main non-prudential barriers that impede cross-border activities?

	Fully agree	Somewhat agree	Neutral	Somewhat disagree	Fully disagree	No opinion
Divergent national tax treatment attached to certain banking products (mortgages, savings accounts, deposits) or banking operations (Value Added Tax, corporate and personal income taxation)		X				
More generally, lack of unified banking product offering across EU or sub-regions, forcing product adaptation to each national market		X				
Labour laws and contract laws hindering the servicing of EU bank clients in a Member State by a branch/entity located in another Member State.			X			
Preference by local customers of local bank brands			X			
Divergent insolvency laws and collateral foreclosure rules		X				
Consumer protection laws and client specific documentation		X				
Divergent (non-prudential) reporting requirements		X				
Language barriers				X		
Other (please indicate)						

Please explain which actions should be taken to overcome these non-prudential barriers and improve the integration of banking markets in the EU.

The main non-prudential barriers to cross-border banking in the EU are fragmented tax, consumer-protection, reporting and legal frameworks, which force banks to adapt products and processes market by market instead of scaling them across the Single Market.

In practice, divergent tax treatment of savings, deposits, interest, dividends and withholding taxes raises IT and compliance costs and makes cross-border product design more complex.

More specifically on taxation matters:

- **The tax treatment of saving products.** The Commission's Recommendation on Savings and Investment Accounts (SIAs) acknowledges the role of tax incentives and simple tax compliance procedures in promoting the success of SIA frameworks. Although we recognise that tax treatment of investment accounts is at Member States' discretion, and that different types of accounts and/or investment horizons may benefit from dissimilar tax incentives, there is no evidence that investment accounts aiming at promoting increased participation of investors without tax benefits have succeeded in any

way. Member States should implement the spirit of the Commission's Recommendation on SIAs and offer retail investors an exemption from tax on investment income (i.e. interest and dividends) and capital gains.

- **VAT and banking operations:** EU banks bear over €45bn p.a. in irrecoverable VAT, which materially increases the sector's total tax burden and underscores the need to modernise and harmonise the VAT regime. The EU's VAT legislation needs to be updated to reflect the development of new products and technological and business changes. The VAT exemption for financial services should be retained to avoid imposing an additional cost on the users of everyday financial products, but it should be modernised and harmonised through incremental changes to the existing framework. This would increase certainty for businesses and reduce disputes with tax authorities. VAT rules are not applied consistently across Member States and, for some Member States, there is very little guidance or engagement with taxpayers. There is scope to harmonise VAT rules across the EU in areas such as the option to tax, VAT grouping, and cost sharing.

At the same time, the lack of a unified product framework means that even where passporting exists, banks must still adapt documentation, onboarding, KYC/AML and consumer disclosures country by country. The continued use of directives, national options and gold-plating undermine legal certainty and prevent meaningful integration.

Another major barrier is the persistence of divergent insolvency, collateral-enforcement and contract-law regimes, which makes cross-border financing and servicing materially more complex. This is particularly problematic for receivables finance, factoring and securitisation, where the absence of a harmonised rule on the law applicable to the third-party effectiveness of receivables assignments creates repeated legal analysis, multiple perfection formalities and unnecessary costs across jurisdictions.

Consumer-protection rules and client-specific documentation requirements also remain highly heterogeneous, which is especially burdensome for pan-European digital offers. In addition, institutions increasingly face overlapping and sometimes contradictory interpretations from prudential, conduct, AML, data-protection and AI authorities, which creates legal uncertainty and duplicated compliance work.

The most immediate actions should therefore be to favour directly applicable regulations over directives where suited, reduce national options and gold-plating, simplify overlapping reporting obligations, and move toward a more harmonised banking licence and authorisation process for genuinely pan-European activities. The EU should harmonise key non-prudential enablers of cross-border banking, notably KYC/AML requirements, consumer documentation, tax reporting, insolvency rules and receivables-assignment law, while ensuring much better coordination among non-prudential supervisors. These steps would significantly reduce time-to-market, lower compliance costs and make it possible to deploy digital and cross-border banking offers at scale across the Union.

Protection of depositors

38. To what extent would further strengthening the protection of depositors provide reassurance on the stability and effectiveness of the EU crisis management framework and its ability to shield EU taxpayer money and therefore support the competitiveness and integration of banking markets?

To a very large extent	To a large extent	Neutral	To a small extent	Not at all	No opinion
	X				

Please explain.

A competitive banking landscape, first and foremost, should rely on banks having business models that inspire confidence and trust from clients and markets on their own merit, rather than through reliance on external support in case of failure.

We do not believe that increases to depositor protections through additional funding are appropriate. However, we do consider that enhancements should be made to the functioning of existing frameworks for ensuring depositor protection and that outstanding gaps and a lack of harmonisation should be addressed. If implemented in alignment with the principles set out in our response to Question 34, these enhancements support the competitiveness and integration of banking markets.

Depositor protection plays an important role by reducing the risk of bank runs and contagion by reassuring depositors that their funds are protected, thereby limiting destabilising withdrawals and spillovers to other institutions in times of stress. We consider that depositors and taxpayers already benefit from comprehensive protection through safeguards including banks' significant loss absorbing and recapitalization capacity levels, resolution plans, DGSs (which are accepted but introduce competitive distortions), resolution funds and the SRF. Under the CMDI framework, covered deposits also benefit from 'super priority' status in the creditor hierarchy. Against this background, we do not consider that increasing the level of depositor protection or introducing additional ex-ante funding is appropriate or necessary to support stability, competitiveness or the integrity of banking markets.

However, we do consider that the framework can be improved. It is important to assess where enhancements may be most beneficial and whether they can be introduced without generating moral hazard or unnecessary complexity. We consider that enhancements should include enabling the portability of funds between DGSs and ensuring credible liquidity provision.

We also acknowledge that the absence of a common deposit insurance scheme remains a gap in the implementation of the Banking Union and we discuss this further in our response to Question 40.

39. Today, when a bank is in distress, deposit protection in the European Union is provided by: safeguarding depositors' access to their money if a bank is resolved with the use of banks own loss absorbing capacity, a resolution fund and/or a deposit guarantee fund, or;

- **paying customers back with the use of deposit guarantee funds if a bank closes and is liquidated, or;**
- **safeguarding depositors' access to their money through financing of preventive and/or alternative measures by a DGS, where available.**

In your view, could the system be simplified and made more effective by combining the deposit insurance and resolution functions within existing funds? Would there be any unintended consequences?

We have concerns with the appropriateness and feasibility of this proposal. We acknowledge that, subject to appropriate safeguards and governance, there is an argument that combining deposit insurance and resolution functions could simplify the framework for deposit protection by reducing fragmentation and enabling faster, more coordinated crisis responses, well as removing the need for complex mechanisms such as the 'Bridge-the-Gap' tool designed in the recent CMDI review. Combining these functions could also support effectiveness by permitting more flexible and timely use of funds to protect depositors while supporting orderly resolution, rather than separate mandates constraining swift responses.

However, combining these functions would require strong safeguards and robust governance to prevent moral hazard, preserve the credibility of bail-in, continued protection of taxpayers and to uphold the 'polluter pays' principle. If these are not in place, there is a risk that combining functions, and expanding the functions of national DGSs, leads to increased fragmentation and widens differences in funding capacity across Member States, as well as inadvertently reinforcing the bank-sovereign nexus. Furthermore, trust in DGS funds risks being undermined if funds can be diverted to finance resolution measures. Similarly, credibility in resolution funds risks being negatively impacted if adequate funding and independent financing cannot be demonstrated. Additional concerns relate to the structural inconsistencies that may arise due to the DGSD and BRRD pursuing different objectives, relying on different funding levels and following distinct procedural rules.

We also note that large banks covered by the SRM, whose failure would be managed through resolution rather than liquidation, contribute to national DGSs, which primarily intervene to finance payouts when smaller institutions fail. These contributions are in addition to those made to the SRF, given its specific mandate, and to banks' own significant loss absorbing capacity (MREL). Banks which, at individual level, have sufficient recapitalization capacity, should not be required to address a lack of capacity in other banks. We question the implications of combined functions for contributions and emphasise that reforms should focus on ensuring alignment with the 'polluter pays' principle.

As a result of the above risks and concerns, we question the appropriateness and feasibility of combining deposit insurance and resolution functions. We recommend giving consideration to retaining separate DGS and resolution funds, but ensuring a credible system of mutual liquidity support between DGSs, complemented by an additional public liquidity backstop. Further detail is set out in our response to Question 40. Contributions should be calibrated in accordance with the risks posed by each bank and focused on those earmarked for liquidation given they are the banks that may require DGS intervention. Similarly, contributions to resolution funds should be drawn from banks earmarked for resolution.

40. In your view, when considering the scope of banks to be included in a possible new banking union-wide deposit insurance system, should this scope include…

	Fully agree	Somewhat agree	Neutral	Somewhat disagree	Fully disagree	No opinion
…all banks						
…all banks which are active cross-border						
…all banks under direct SSM/SRB remit						

…only banks that wish to be included						
…other	Please refer to our comments below					

Please explain.

Comments on a Banking Union wide deposit insurance system

We reiterate earlier comments that a competitive banking landscape, first and foremost, should rely on banks having business models that inspire confidence and trust from clients and markets on their own merit, rather than on reliance on external support.

However, the absence of a common deposit insurance scheme remains a gap in the Banking Union. Consistent depositor protection is essential to prevent market fragmentation and ensure that confidence in deposits does not depend on national borders. Moreover, the lack of a Banking Union wide depositor protection scheme is cited by several host-country authorities as an argument to deny capital and liquidity waivers for cross-border groups. These waivers would enable efficient group-wide allocation of capital and liquidity, reduce trapped resources, and improve the functioning of the Single Market.

AFME supports an initial scheme focused on mutual liquidity support between national DGSs. In this model, if a national DGS faced a temporary liquidity shortfall, other DGSs would provide support through loans. This would be a step in the right direction and one of the few pragmatic pathways to break the current political stalemate.

AFME acknowledges that such a scheme would shift liquidity within the system in case of need, rather than increase the system's aggregate loss-absorbing capacity. This means it may not fully resolve market-confidence concerns, particularly in Member States with more limited fiscal capacity. Ultimately a carefully designed Banking Union level deposit insurance scheme – with objective triggers and risk-based contributions – is the most credible way to deliver uniform confidence. Its design should ensure risk discipline is duly preserved across the whole Banking Union and moral hazard risks are avoided.

AFME highlights that both the original 2015 EDIS proposal and the voluntary deposit insurance scheme for cross-border banking groups outlined in Mario Draghi's report 'The future of European competitiveness' **do not envisage any additional funding requirements for the banking sector**. This overarching principle remains essential: **a Banking Union-wide scheme should not address existing vulnerabilities by calling for new contributions from banks, but rather by allowing the pooling and disciplined reallocation of the resources that are already accumulated within national DGSs**. It is important that the scheme remains cost-neutral for industry while simultaneously enhancing the resilience and consistency of depositor protection across the Banking Union. In a Banking Union-wide scheme, contributions should be risk-based and calibrated to institutions' risk profiles to preserve market discipline and thereby mitigate moral hazard, in line with the principles set out in our response to Question 34.

While not a substitute for a comprehensive Banking Union-wide scheme, a dedicated mutualised deposit insurance mechanism, conceived as a country-neutral optional spin-off from national DGSs and focused on the payout function for cross-border banking groups (with an opt-in mechanism for other banks), could represent, under certain conditions, a viable step forward.

Comments on the scope of a Banking Union wide deposit insurance system

Including all banks in a Banking Union-wide deposit insurance system could help to avoid fragmentation, confusion for depositors, and complexity. However, it would be crucial to ensure that contributions to the system align with the risk that each institution poses. Contributions should reflect that banks earmarked for resolution already have high MREL

levels that protect those banks' depositors and already make significant contributions to DGSs and the SRF i.e. no additional contributions should be requested from those banks. For this reason, it may also be argued that a new system should be focused only on banks earmarked for liquidation, rather than banks earmarked for resolution.

We also acknowledge proposals, such as those raised in Mario Draghi's report, for a separate jurisdiction for European banks with substantial cross-border operations that would be 'country blind' from regulatory, supervisory, and crisis management viewpoints. For these banks, the report suggests that a separate deposit insurance system could be created, funded by the groups themselves, while national banks remain within existing deposit insurance schemes. As mentioned above, a country-neutral optional spin-off from national DGSs focused on the payout function for cross-border banking groups (with an opt-in mechanism for other banks) could represent, under certain conditions, a viable step forward.

Regarding the system of mutual liquidity support between DGSs, we note that this would require participation of all DGSs, clear criteria for interventions and measures to prevent moral hazard. As above, contributions should reflect that banks earmarked for liquidation are most likely to benefit from such a scheme.

Recommendation to review the DGSD

While we recognise the interest in a Banking Union wide deposit insurance system, it is important to highlight the significant scope to improve the existing deposit insurance framework, notably by minimising trapped capital and addressing barriers to the portability of funds between DGSs.

Background

Currently, contributions to national DGSs lead to a significant amount of capital being trapped. Furthermore, the current mechanism disincentivises cross-border consolidation as well as branchification strategies and impedes development of the Banking Union as it constrains the transfer of funds between different DGSs.

Changes in a bank's corporate structure or the selling or acquiring of a business may lead to a bank ceasing to be a member of a member state's DGS and joining the DGS of another member state. Article 14(3) of the DGSD sets out that when a bank changes its affiliation from a member state's DGS to another member state's DGS, or if some of the bank's activities are transferred to the DGS of another member state, the DGS of origin shall transfer only the contributions paid in the previous 12 months (with the exception of the extraordinary contributions referred to in Article 10(8)). All other funds paid into the DGS of origin over the years cannot be transferred.

However, the DGS to which the bank transfers covered deposits will rightly want to ensure adequate financing of the additional covered deposits under its purview. This means the bank could pay twice for insuring the same deposits. This barrier has previously been recognised by the ECB[26] and by the European Parliament[27] but was not addressed in the recent CMDI framework review.

Proposal

AFME proposes an overhaul of the mechanism for DGS contributions and the introduction of a new reserves-based mechanism. Under our proposal, DGS contributions would continue to be made based on a bank's risk-weighted covered deposits. Resources would be contributed

[26] ECB Committee on Financial Integration, Financial Integration and Structure in the Euro Area (June 2024), available at: https://www.ecb.europa.eu/press/fie/pdf/ecb.fie202406~c4ca413e65.en.pdf

[27] European Parliament legislative resolution of 24 April 2024 on the proposal for a directive of the European Parliament and of the Council amending Directive 2014/49/EU as regards the scope of deposit protection, use of deposit guarantee schemes funds, cross-border cooperation, and transparency, available at: https://www.europarl.europa.eu/doceo/document/TA-9-2024-0328_EN.pdf

in cash by institutions, by posting reserves to the relevant DGS. Reserves would take the form of income-bearing instruments that yield short-term interest (capped by the actual yield of the DGS's assets).

We recommend that DGS reserves be reviewed annually to ensure that any change in an institution's covered deposits or risk profile is accounted for. This would lead to a firm making a higher contribution if the firm's covered deposits have grown, as well as a firm being reimbursed the difference between the contribution to date and the amount due based on their current deposits, if their deposits have reduced.

If an institution were to change its DGS affiliation, their unused reserves would be redeemed. This would enable a 'stock-based' approach and address the portability of funds between DGSs.

While recognising that DGSs are principally used to protect depositors, in the event that the reserves in a DGS are used to support a failing bank, the portion of the reserves that are used would be transferred to a separate dedicated compartment in the DGS. The DGS would retain responsibility for managing the support provided to the failing bank. However, the risks and benefits of the instruments used (i.e. the reserves transferred to a dedicated compartment) would be fully assigned to the institutions whose reserves have been used, establishing silent participation. This would mean that if loans are extended to the failing bank, repayments (including interest) would be made to the participating institutions whose contributions to the DGS were used to fund the loans.

Reserves used to cover losses and costs to protect depositors would be written off. The general pool of reserves would be replenished over the required period in line with the stock-based approach previously mentioned.

This proposal would ensure a continuation of an ex-ante approach. It also ensures fairness and encourages market discipline as new contributors to the DGS would be placed on the same footing as existing contributors. New participants would not unfairly benefit from others' contributions, while changes in a bank's deposits would be accounted for.

Other proposals for consideration

If the mechanism for DGS contributions is not considered a viable option, we would encourage the European Commission to consider alternative solutions to ensure the portability of funds to support cross-border bank integration without lowering depositor protection in the EU. This could include:

- Amending Article 14(3) of the DGSD to specify that the DGS of origin shall transfer to the receiving DGS an amount that reflects the accumulated value of contributions paid by the exiting institution, net of possible uses.

- Providing the EBA with a mandate to develop a methodology for risk-based transfers and to permit such transfers.

In addition, should the mechanism for DGS contributions not be reviewed as proposed, we encourage the European Commission to address the current lack of harmonisation regarding the use of IPCs, which are not currently permitted in all member states, and to design a mechanism ensuring that the banks most likely to ever require using DGS funds, i.e. those earmarked for liquidation, bear the bulk of contributions.

Finally, while this consultation does not seek feedback on the functioning of the SRF, we emphasise that our proposal to amend the mechanism for DGS contributions should also be considered with regards to SRF contributions, with a view to introducing a new reserves-based mechanism for SRF contributions. This should be assessed as part of a comprehensive review of the SRF to minimise trapped capital and ensure the calculation methodology is transparent.

41. In your view, a possible new banking union-wide deposit protection fund should…

	Fully agree	Somewhat agree	Neutral	Somewhat disagree	Fully disagree	No opinion
… be used to provide only liquidity support to national DGS						
…replace national DGSs						
…replace national DGSs for deposits in a subset of banks as identified in the previous question						
…other	Please refer to our answer to Question 40					

Please explain.

Please refer to our answer to Question 40.

Liquidity in resolution

42. In your view, would a more transparent and predictable European mechanism ensuring the provision of liquidity in resolution to large banks in distressed scenarios strengthen the effectiveness and credibility of the European crisis management framework? How could it affect the bank-sovereign nexus and the reliance on national taxpayer-funded resources in a crisis?

- ○ Yes
- ○ No

Please explain.

In line with previous AFME feedback on this issue[28], we emphasise the importance of clarifying access to public sector backstops for temporary liquidity in resolution. Liquidity in resolution is a key unresolved gap in the CMDI framework.

A more transparent and predictable mechanism would help to contain contagion and preserve market confidence by ensuring that liquidity remains available during resolution. This will help to contain stress within the failing institution. Clear rules on access, triggers and governance would reduce uncertainty at the very moment when market confidence is most fragile, limiting the risk that a liquidity shock escalates into a broader systemic crisis affecting funding markets, sovereign spreads and ultimately the real economy.

A credible, clear and transparent liquidity mechanism will complement loss absorbing capacity requirements to ensure resolution is operationally feasible. For example, while MREL ensures that sufficient bail-inable resources are available to absorb losses and re-capitalise a bank in resolution, it does not by itself guarantee that the institution will retain access to funding during the transition phase. A credible liquidity backstop would therefore make resolution operationally feasible, bridging the gap between solvency restoration and market re-entry, and reinforcing the credibility of bail-in and market confidence. Overall, it would reduce systemic risk, which is particularly relevant for cross-border banking groups.

A mechanism would also contribute to weakening the bank–sovereign nexus (as it could encourage authorities to grant cross-border liquidity waivers, enabling liquidity surpluses to be deployed and support the EU economy) and reduce reliance on national taxpayer-funded re-

[28] https://www.afme.eu/media/2mcanduh/afmecmdipositionpaperfinal20230714.pdf

sources. This would help prevent situations in which banking sector stress translates into sovereign stress, and vice versa, reducing fragmentation risks within the Banking Union.

At present, existing EU instruments, the SRF and the limited, not yet fully operational common backstop from the ESM, are inadequate. Actual liquidity needs observed in recent bank crises have been multiple times larger than the volumes currently available under EU arrangements, even when institutions were fundamentally viable. Furthermore, with SRF contributions being deducted from capital, the mechanism is not suitable for liquidity provision.

Other major jurisdictions already operate centralized, sizeable and flexible liquidity in resolution mechanisms. For example:

- In the **United States**, under Title II of the Dodd Frank Act, the FDIC can access the Orderly Liquidation Fund (OLF), financed via U.S. Treasury borrowing authority, enabling very large (potentially hundreds of billions of dollars) in temporary liquidity to a failing systemic institution, with ex post industry assessments to repay Treasury.

- In **Switzerland,** during the failure of Credit Suisse in March 2023, authorities made available up to CHF 200 bn in liquidity support (two tranches of up to CHF 100 bn each, including a Public Liquidity Backstop guaranteed by the Confederation). Only part of this capacity was drawn during the acute phase, and the extraordinary guarantees were subsequently repaid/terminated once stability was restored.

For these reasons, establishing a predictable, centralized and scalable EU liquidity in resolution mechanism is essential. Because the support would be temporary and fully repayable, it would not constitute a return to bailouts (i.e. it would not foster moral hazard or distort competition); rather, it would provide the financial stability backstop necessary for genuine resolvability, stronger market confidence and a true level playing field across the EU. However, we also emphasise the importance of ensuring appropriate safeguards and clear conditionality.

43. Do you consider that introducing a formal transparent mechanism to provide liquidity in resolution can provide reassurance on the stability and effectiveness of the crisis management framework and therefore support the integration of banking markets? If yes, what do you consider to be the desirable features of such mechanism?

As set out in our response to Question 42, we fully support clarifying access to public sector backstops for temporary liquidity in resolution and consider that an effective mechanism ensuring sufficient liquidity provision in resolution would fill the existing gap. This would reassure market participants, restore confidence in an institution in resolution, and help to stabilize a resolution situation.

It is important to ensure that a consistent approach is applied to all banks, regardless of size and that the mechanism is clearly defined to ensure predictability and confidence in the resolution process.

The ECB/national central banks should be the primary provider of liquidity as lender of last resort, given its institutional mandate, operational capacity and expertise in managing systemic liquidity risk. Resolution does not eliminate the need for central bank funding. On the contrary, credible and predictable access to Eurosystem liquidity is essential to ensure continuity of critical functions, prevent disorderly deleveraging and avoid destabilising spillovers across the Banking Union. We acknowledge that consideration may need to be given to amending the Treaty on the Functioning of the European Union to enable the ECB/national central banks to take on this role.

Such a mechanism should explicitly confirm that banks in resolution remain eligible for central bank operations, subject to appropriate risk control and collateral frameworks, with strong ex-

ante coordination between resolution authorities and the ECB to ensure operational readiness. At the same time, it should be fiscally neutral. This could be ensured through appropriate guaranteed structures, for example via the Single Resolution Fund and its common backstop, so that any losses or risks are mutualised within the sector and recovered over time through ex post contributions from banks if losses materialise. Strict conditionality and full alignment with the bail-in and MREL framework would remain essential to safeguard market discipline and mitigate moral hazard.

The mechanism should incorporate the following features:

- **Comprehensive EU level governance:** Activation and management should be centralised (e.g. through the SRB, ECB/Eurosystem, Commission), ensuring fast decision-making and harmonisation. Access rules and decision criteria should be transparent, published, and consistent across all Member States.

- **Sufficient capacity aligned with real liquidity needs:** The mechanism must be scalable to match the actual liquidity outflows observed in recent crisis cases, which have been substantially larger than the capacity of the current EU tools. It should cover large cross-border groups, including G-SIIs, which may require sizeable temporary liquidity during stabilisation.

- **Temporary, collateralised and fully repayable support:** Liquidity, not capital, should be provided strictly as a temporary bridge. Super-senior priority and full collateralisation preserve the “no taxpayer bail-out” principle while still ensuring credibility.

- **Integrated with existing crisis management tools:** Operational interoperability with the SRF, the ESM backstop, and Eurosystem liquidity frameworks will be important, as will alignment with supervisory and resolution reporting requirements to ensure timely data availability.

- **Support for true cross-border market integration:** Uniform accessibility across Member States would reduce incentives for ring-fencing and strengthen the functioning of EU-wide banking groups. Greater predictability will enhance the confidence of investors, depositors and counterparties in EU institutions.

- **Fast-track legal certainty for collateral and set-off during resolution:** Member States should ensure that collateral, set-off and close-out netting are fully enforceable over the resolution weekend, including through emergency court or registry availability. This would reduce uncertainty and haircuts and make support more effective.

- **Easier collateral mobilisation:** Pre-approved templates and procedures would allow banks to quickly mobilise large pools of collateral.

- **SRF guarantees:** Further embedding and operationalising the option for the SRF to guarantee retained unsecured notes (unsecured by the issuing bank) that, as a result of the guarantee, are eligible for central bank ELA. This could significantly leverage the liquidity potential of the SRF compared to outright SRF liquidity support. Under this mechanism, the SRF guarantee would enable unsecured notes retained by the issuing bank (which has issued notes to itself) to be eligible as collateral for central bank funding, allowing the issuing bank to receive central bank funding.

- **Broader eligible collateral on a temporary basis:** National Central Banks, within Eurosystem rules, should be able to accept a wider range of credit claims and apply simplified documentation requirements.

- **Clear Intraday liquidity operations playbook at NCB (National Central Bank) level:** Each NCB should have a predefined operational playbook for providing intraday liquidity in resolution scenarios.

- **Operational readiness for the first days after resolution:** Pre-established arrangements should include extended settlement hours (e.g. TARGET), contingency intraday credit lines for bridge banks or buyers, and predefined margin and haircuts procedures during the first five business days.

- **Operational coordination with DGS/treasury authorities:** Although liquidity in resolution is not DGS-funded, DGS or treasury authorities should be operationally ready to keep payment accounts functioning over the resolution weekend, so liquidity can circulate smoothly and avoid bottlenecks.

Sovereign exposures and risk reduction

44. To what extent do you consider the following factors as significant drivers for the 'home-bias' (i.e. banks' disproportionate exposures to their home sovereign)?

	Fully agree	Somewhat agree	Neutral	Somewhat disagree	Fully disagree	No opinion
Application of prudential requirements at solo level						
Other (prudential) rules						
Limited cross-border financial integration						
Role in market-making for home sovereign debt						
Business model considerations (aligning assets with domestic activity)						
Government pressures to invest in the local sovereign bond market						
Expectations of public support						
Investment in home sovereign debt perceived as safe and highly liquid asset						
Insufficient access or supply of other governments' debt fitting the risk-appetite of the bank.						
Other (please specify)						

Please explain.

AFME will not provide a response to this question.

45. Do you consider that the EU framework on the regulatory treatment of sovereign exposure should be improved? If yes, how should this be done, and how would it affect the holdings of sovereign debt by banks?

All sovereigns are specified as exempt from the Basel LE framework but are currently only exempt from the EU approach if eligible for a 0% risk weight under the standardised approach to credit risk.

Under standardised credit risk rules, to achieve a 0% risk-weight, one of several alternative conditions must be met:

- The external credit rating must be AA- or above to qualify for CQS1;
- In the case of lower externally rated member state sovereigns the exposures must be 'denominated and funded in the domestic currency'; or
- For lower externally rated third-countries in addition to the exposures being be 'denominated and funded in the domestic currency', equivalence decision on the relevant regulations applied by the third country regulator must have been made and the third country regulator must apply a 0% risk weight.

In this context we would question the rationale for aligning the conditions in the large exposure rules to the credit risk rules, particularly, with regards to the following in the context of the mandatory substitution requirements for received collateral:

- The connection to the credit risk rules and scope restriction of the exemption vs Basel: we would argue that the importance and extent of usage of sovereign bonds as collateral warrants their exclusion from the large exposure limits. Particularly for exposures to counterparties in emerging markets this will limit their usage as collateral and many counterparties are likely to only have their local sovereign bonds as collateral. This could potentially have knock on impacts to the pricing of sovereign debt as the lack of robust repo markets will reduce the ability to re-use and fund sovereign debt. The rules could either align to Basel fully in exempting sovereign exposures from large exposures limits or alternatively consider retaining the large exposure limits to direct sovereign exposures (not eligible for the 0% risk weight) whilst treating the indirect element arising from the substitution approach as a reporting item only to allow the competent authority to monitor indirect exposures to sovereigns and take action if deemed necessary without having a market restricting impact on this important source of collateral. We would note that this approach would be capable of being assessed as compliant with the Basel standards under any RCAP assessment.
- If indirect exposures to sovereigns as collateral issuers are not fully exempted from the large exposures limits per the above considerations, then we would note that the requirement for such exposures to be funded in the domestic currency of the sovereign as set out in Article 114(7) to obtain a 0% risk-weight is problematic for indirect exposures taken under the MSA. The collateral received is off-balance sheet and is not funded by the institution and there is no way to ascertain how the counterparty is funding it. Furthermore, having liabilities/ funding in the relevant currency would have no impact of the ability to liquidate that same collateral in the event of a default of the underlying counterparty and has no bearing on the actual default risk of the collateral issuer. Even in the context of repos/reverse repos with a cash leg it is likely that on-balance sheet netting will occur and result in insufficient corresponding liabilities vs. a gross exposure on only received collateral. This issue applies to EU sovereigns rated below AA- such as Italy and Spain etc.
- In its 2017 consultation on the regulatory treatment of sovereigns (BCBS425) the BCBS noted that "funding sources are somewhat fungible and not necessarily linked to specific assets". The context of this requirement originally was to mitigate foreign exchange risk and as discussed by the committee these risks would be captured under the market risk framework even when arising from banking book exposures. Therefore, in our view there is no need to require exposures to be funded in the same currency in terms of application of a 0% risk weight for credit risk, the purpose of which is to cater for the default risk of the issuer. We agree that the credit risk arising is somewhat differentiated for currency of denomination as the issuer has more latitude to avoid domestic currency defaults through currency devaluation. However, even for foreign

currency issuances sovereign exposures are the most liquid global assets which perform a fundamental key role in financial markets as the most commonly utilised collateral and the Basel Committee is clearly comfortable with their broad exemption as a result.

- Without exemption we are concerned about the impact on sovereign market liquidity. A reduction in sovereign repo activity is likely to have significant costs for cash investors as limited repo markets may no longer be able to support the low-risk investment of cash as firms will be limited in the amount of sovereign bonds they can receive against the cash they lend and conversely will therefore not have the collateral available to provide to cash investing clients. Further, by limiting the flow of collateral and the financing of market-making, it could increase liquidity premia, reduce price discovery and cash market functioning, and ultimately lead to an increase in the costs to government primary market issuance. A restriction in repo markets could be particularly acute in periods of stress where investors will instead have to sell their securities as banks will be unable to provide short term liquidity against them.

46. Exposures to Member States' central governments, or third country jurisdictions assessed as equivalent, when denominated and funded in domestic currency, receive a 0% risk weight under the Capital Requirements Regulation, as provided for by the international standards. Such 0% risk weight applies regardless of credit rating, exempts the sovereign bonds from large exposure requirements, and classifies them as high-quality liquid assets. However, this treatment does not apply to sovereign exposures denominated in Euro issued by non-Euro Area Member States. Should that treatment be expanded to sovereign exposures issued by non-Euro Area Member States and denominated in Euro and how would this affect the holdings of sovereign debt by banks? Please elaborate.

We do not have a position on this question but would like to use this opportunity to raise a related issue and request the EC/EBA undertake a holistic review of the SA treatment for unrated Central Banks. This should clarify that ECAI sovereign ratings can be applied to both the central government and central banks when the rating methodology applied by the ECAI reflects the connection between the central government and central bank specifically when the central bank is not that of a monetary union.

ECAIs only publish a rating for the entity or entities issuing the government debt and as such central banks can often appear technically unrated which would result in an unfavourable risk weight other types of exposures to the central banks than holdings of the debt instruments e.g. SFTs.

The potential issue arises because Article 114 of CRR3 states that exposures to central banks and central governments should be risk-weighted at 100%, unless a series of exceptions apply (paragraphs 2-7 or Article 114). For countries without equivalent supervision, the only potential deviation from a RW of 100% lies in external ratings. It is implicit in paragraph 2 that the existence of an external rating for the central bank or for the central government would change the risk weight of associated exposures, but not of exposures to both entities.

The sovereign rating methodologies of S&P, Moody's and Fitch are broadly clear that they consider central banks to be of a consistent risk with the central government and we have seen no observable instances where a central bank is rated differently to the central government (albeit there are limited practical examples of central banks being explicitly rated as they broadly do not issue the government debt in their name):

- S&P Sovereign Rating Methodology extract: "138. The ratings on monetary authorities outside of monetary and currency unions are at the same level as their respective sovereign because we consider that they are analytically inseparable from one another."
- Fitch Rating Methodology extract: "Central banks, like other public-policy institutions, are agents of the sovereign, but as part of the macroeconomic policy framework are

considered to be very closely linked to the sovereign. As such, Fitch typically treats rated securities issued by the central bank as equivalent to securities issued by the sovereign from a rating perspective,"

- Moody's Rating Methodology extract: "Because a central bank's credit profile is typically inextricably intertwined with that of the government and therefore influenced by the same credit fundamentals, issuer-level and instrument-level ratings assigned to a central bank typically correspond to those of the central government. In assigning a central bank rating, we consider the central bank's institutional setup, as well as relationship between the sovereign and the central bank and their overall alignment."

Our proposal is in line with the Basel principles established for sovereign risk weighting as per point 18 of the 2001 supporting document to the New Basel Capital Accord 2001 ("Given the similarity in risk profiles, claims on central banks are assigned the same risk weight as that applicable to their sovereign governments"). Further, we see no conflict with the possible future direction for Basel standards set out in the 2017 discussion paper on the regulatory treatment of sovereign exposures, where Table 6 indicates a differentiation in risk weight treatment being considered between central governments and central banks in the future but with the central banks being considered higher quality than the central government - i.e. blanket 0% proposal for all central bank exposures where denominated and funded in domestic currency and alignment to the central government otherwise. In most cases in practice, we indeed observe that a) in a stress, the central bank is the stronger entity providing support to the Ministry of Finance-Treasury, and b) in most events of defaults, it is the central government entities that default and the central bank does not.

Therefore, we consider a scenario where there is a possible 100% risk weight applied to central banks to be very drastic and an overly conservative approach compared to the economic risk of exposures to these entities.

EBA Q&A 2017_3231 should be repealed in line with the above.

Section 3 – Complexity and effectiveness of the regulatory framework

General Assessment

47. How would you evaluate the current regulatory framework for banking in terms of:

	Low	Somewhat low	Medium	Somewhat high	High	No opinion
… effectiveness (the extent to which the framework achieved its objectives)				X		
… proportionality (the extent to which the objectives of the framework are achieved at minimal cost)		X				
…EU added value (extent to which EU intervention provides benefits that could not be achieved by Member States acting alone)					X	
…relevance (extent to which EU intervention provides benefits that could not be achieved by Member States acting alone)					X	

…coherence (extent to which a policy/intervention is internally consistent and externally consistent with other EU policies)		X				

48. A certain degree of complexity is necessary to achieve the desired regulatory objectives, while recognising the degree of sophistication and diversity of the EU banking sector. How do you rank the comparative level of undue complexity in the following parts of the framework?

	Low	Somewhat low	Medium	Somewhat high	High	No opinion
…the overall framework					X	
…the minimum capital requirements (Pillar 1)				X		
…the supervisory measures (Pillar 2)				X		
…the macroprudential requirements					X	
…the resolution requirements					X	
Other						

Please explain.

The current going concern framework layers on top of Pillar 1 seven partially duplicative buffers addressing macro-procyclicality, systemic risk, stress, and idiosyncratic risks. This fragmented structure adds opacity and constraint without proportionate prudential benefit. We would propose to consolidate the going concern requirements into three clearly defined components:

- Pillar 1.
- Pillar 2R and Pillar 2G for idiosyncratic risks.
- Macroprudential - systemic risks would be covered by the G-SII/O-SII buffer, where G-SII would only be subject to the G-SII buffer and not both. The CCyB would be retained but set to zero, also avoiding positive-neutral CCyB, reflecting supervisory experience that Pillar 2 has so far operated as the effective countercyclical buffer in practice. The SyRB would be phased out due to substantial overlap with existing buffers and its status as non-Basel “gold-plating”.

For loss-absorbing (“gone-concern”) requirements, we suggest the replacement of MREL with a framework combining TLAC and a TLOF subordination requirement for all resolution entities linked to access to the Single Resolution Fund, improving consistency with international standards.

In terms of governance, we propose establishing a central EU banking forum between the relevant authorities to help considering the operational impact and capital demand of their decisions on firms. Please see our answer to question 59 for further details on the central banking forum.

The proposals would generate approximately EUR 2.8tn in additional lending to the real economy and lower EU banks’ cost of capital by 62bps. For G-SIIs, the changes amount to 28bps reduction in cost of capital, for O-SIIs to 51bps and to 132bps decline in their cost of capital for LSIs. We expand in more-depth on the above suggestions and their implications in

a recent AFME paper on the need to simplify the EU's Capital Stacks[29] published in March 2026.

49. Which type of instrument adds the most undue complexity to these parts of the frameworks?

	Low	Somewhat low	Medium	Somewhat high	High	No opinion
International standards (Basel, FSB)		X				
Level 1 EU legislation (i.e. regulation/directives)			X			
Level 2 EU legislation (i.e. technical standards)				X		
Level 3 EU measures (i.e. EBA guidelines, Q&As, etc.)					X	
Supervisory guidance/practices				X		
Implementation differences of EU legislation at national level					X	
Interaction with other national legislation	X					
Interaction with other EU legislation		X				
Other						

Please explain.

Level 1 texts often lack the clarity and detail required for direct application and must be supplemented by Level 2 and Level 3 texts. This layered approach inherently creates complexity. Notably, during the implementation of the CRR3 prudential reform, the EBA was given more than 100 mandates to clarify the Level 1 text. In addition, there is often a significant time lag (months to years) between the level 1 text being finalised and the level 2 text being agreed, which leads to increased compliance costs and uncertainty for - in the intervening period banks have to use more conservative approaches or develop approaches which may no longer be compliant after the level 2 text has been agreed. There is then a need to re-implement once the Level 2 text is finalised and this becomes especially acute where Level 1 provisions are highly operational, e.g., data fields, reporting formats, risk-measurement methodologies, or governance and control expectations.

The consequences include:

- **Duplicative costs**: systems, processes and documentation must be re-built once RTS/ITS land.
- **Incoherence and divergent national implementation**: NCAs may fill the vacuum with interim expectations that may differ.
- **Supervisory friction and legal uncertainty**: firms may be assessed against draft or anticipated standards rather than the legislation currently in force.
- **Cliff effects and compliance gaps**: obligations arrive in the statute book before they are realistically operable.
- **Reduced competitiveness**: global peers in jurisdictions with simultaneous rulemaking do not face these repeated rounds of re-engineering.

[29] https://www.afme.eu/publications/reports/simplifying-the-eu-capital-stack/

In short, **sequencing is not administrative detail but it is a competitiveness and stability issue**.

Moreover, in practice, level 2 and 3 texts often expand obligations beyond Level 1 mandates, blurring legal boundaries and creating uncertainty. Indeed, soft law/level 3 texts (e.g. Q&A) increasingly adopts prescriptive language ("shall," "must"), transforming mere expectations into quasi-obligations without any firm legal basis, nor are they subject to the same cost-benefit analysis or scrutiny as Level 1 and Level 2 measures. This not only increases the technical burden but also reduces legal certainty and makes forward planning more difficult. The de facto normativity exerts strong pressure on institutions while evading judicial review—allowing supervisory bodies to expand their regulatory reach precisely where legal safeguards are the weakest. As a result, although formally non-binding, level 3 requirements have a de facto normative effect and significantly increase regulatory density without clear legal accountability or effective judicial review. We would also note that EBA guidelines and Q&As can be issued frequently and incrementally, making it difficult for institutions to maintain a stable compliance framework. Their legal status is also ambiguous, yet they are treated in practice as binding by supervisors (at times pre-emptively). Supervisors also pre-apply draft soft law, pressuring institutions to implement expectations that are neither finalised nor challengeable. This practice bypasses procedural safeguards and allows normative influence without assuming corresponding accountability.

Contradictions between soft law issued by the EBA, ECB and SRB ultimately undermine the coherence of the single rulebook. Divergent doctrines and conflicting "comply or explain" positions fragment supervisory practices across Member States. The result is a structurally unstable framework where soft law expands in scope while eluding the controls that should accompany any exercise of normative power.

A comprehensive review of the framework is therefore necessary to restore clarity, coherence and proportionality.

This multiplicity of texts, published by different authorities at different times, poses significant problems. It frequently leads to a lack of homogeneity and consistency. For example, different texts sometimes use similar but not identical concepts (e.g., the co-existence of NPL and NPE ratios). This not only has operational consequences but also complicates the understanding of the various regulatory requirements.

Perhaps the greatest difficulty is the challenge of maintaining a holistic view of a given topic. Consolidating texts wherever possible would be beneficial (with caution to avoid unintended consequences). Crucially, greater alignment between EBA and ECB deliverables is needed to reduce contradictions and improve regulatory predictability. However, these changes would only reduce complexity in the framework if accompanied by significant improvements in supervisory practices, as detailed throughout this response. This includes moving away from a stringent / check-list approach to the interpretation and application of rules (and the creation of soft law through the proliferation of guides and expectations) and, instead, towards a more tailored, principles-based supervisory model, with greater regard to banks' specific risk profiles and operating models. Indeed, the culture and mindset of EU supervisors is an essential component of unlocking the competitive potential of the EU banking system.

The development of internal models for credit risk provides a clear illustration. While the CRR itself dedicates only around 20 articles to the conditions for using internal models, the EBA and ECB have subsequently published over 500 pages of supplementary texts to operationalize these requirements. In practice, this cascade of regulation goes beyond simply clarifying Level 1 texts; and supervisors often introduce new and more restrictive rules. As a result, although the CRR explicitly allows for the use of internal models for certain "low-default portfolios", obtaining supervisory approval for such models has become difficult, if not impossible, for banks.

For illustrative purpose, within these 500 pages, one supplementary text that entails particular sources of complexity is the RTS for assessing the materiality of extensions and changes of the IRB approach. Even though some effort was made to alleviate the burden on banks in the recently published final RTS by the EBA, the framework is r a complex framework for banks to implement. This draws particular attention when considering the upcoming necessary EBA Guidelines on modelling issues, that by construction may entail material changes, while bank have been continuously working on the IRB repair track in parallel. Thus, a stronger simplification initiative is therefore a desirable solution to smoothen the process of model changes for both banks and supervisors.

Complexity may also arise with the non-adapted time lag that may sometimes materialize before the publication of secondary texts. This is for instance the case of the mandates given by CRR 147(11) & (12) to publish RTS on the definition of specialized lending portfolios and on the assignment to IRB exposure classes. Given that the implementation of IRB models is driven by exposure class, further specifications that may not be in line with the assignment bank had to implement with the enforcement of CRR3 may impact the range of application of existing models that could also lead to material changes if material quantitative criteria (RWA impact) is breached with highly constraining consequences as mentioned earlier. In addition, better rule-making processes would both streamline regulatory costs for banks and strengthen effective implementation of the framework.

Certain supervisory practices (e.g., Pillar 2 requirements) end up operating as if they were additional prudential requirements rather than a supplementary measure to address idiosyncratic risks. When this happens, an extra layer is created that increases compliance costs and may lead to duplication, by covering risks that are already addressed within the regulatory framework.

At the same time, the current regulatory architecture remains highly prescriptive. This can limit supervisors' ability to reflect the diversity of business models and institutional structures appropriately in their supervisory assessments and may reduce the system's capacity to respond swiftly to market developments, financial innovation and emerging risks. For example, the overly prescriptive nature of European regulation, combined with rigid supervisory interpretation, prevents the recognition of local third country rules. This reflects a narrow and mechanical application of the framework, with limited scope to consider the real economic substance and specificities of institutions and local markets.

A gradual shift towards a more principles-based regulatory and supervisory framework would allow greater scope for professional judgment by both bank boards and supervisory teams (i.e. those closest to, and most familiar with, the specific characteristics of each institution).

A truly fit-for-purpose supervisory framework would enhance predictability and support banks' strategic planning, as well as reduce unnecessary compliance burdens while ensuring supervision that is proportionate and better tailored to each institution's specificities.

Finally, the lack of international consensus on certain issues undermines the strength and credibility of international standards, while also adding further complexity in contexts where local regulations already exist.

Regarding our views relating to supervisory guidance/practices, please see our answers to Questions 55 and 56 below.

50. Would you support less complexity in the bank regulatory framework even if this means…

	Fully agree	Somewhat agree	Neutral	Somewhat disagree	Fully disagree	No opinion

…less risk sensitivity within risk-weighted requirements						
…increase in capital requirements						
…less consideration for EU specificities						
…less consideration for national specific ities						
…higher contributions to safety nets (DGS and resolution funds)						
…less resilience/ financial stability						

Please explain.

Answering whether one would support "less complexity in the bank regulatory framework even if this means…" is inherently difficult because the trade-offs listed in the question are each material, multi-dimensional policy decisions.

Because of this, the impacts of simplification depend heavily on factors the question does not specify, such as which aspects of complexity are being removed (e.g., reporting, buffers, governance, calibration methods, legal layers) or whether simplification is capital-neutral or not. Given these uncertainties, the question forces the respondent to take a position on trade-offs that are impossible to evaluate without clearer definitions, quantification, and policy scenarios. For example:

- "Less risk sensitivity" could mean a marginal adjustment to modelling criteria or a wholesale shift to standardised approaches — each with vastly different impacts.
- "Less resilience/financial stability" is undefined: does it refer to *temporary buffer flexibility*, *long-term capital erosion*, or something else entirely?
- "Higher capital requirements" could mean *1%*, *10%*, or structural redesign of the capital stack — each with different competitiveness and lending implications.

Because the question does not provide scope, magnitude, duration, or policy intent, any direct answers to the multiple-choice table above risks misrepresenting our views. However, we provide below a few important additional considerations.

The implementation of CRR3 has de facto reduced risk sensitivity by introducing an output floor and mandatory SA for operational risk and some asset classes. The new standardized approach to determine own funds requirements for operational risk under CRR3 was envisaged to be simple. As such, the Level 1 text could benefit from more consistency in the determination of the components of the business indicator. Specifically, the Services Component could be determined on a net basis (netting of income and expenses) keeping the same approach as for the other components. Also, the risk sensitivity of the framework can be enhanced by accounting for lower risk activities. These two measures would enhance the simplicity and consistency of the framework. Moreover, several requirements in the Level 1 text needed additional specifications through Level 2 texts which, unfortunately, introduced some undue complexities. In particular, the requirements to use the prudential boundary to determine the financial component as proposed in the EBA's draft RTS introduces some stringent requirements, above those of the Level 1 text, making this option very hard to use in practice.

Enabling a more flexible and proportionate application of less prescriptive rules through a shift towards a more principles-based regulatory and supervisory approach, would better achieve regulatory objectives while ensuring the framework remains robust, forward-looking and fit for purpose in a rapidly evolving financial environment.

Reducing regulatory complexity is important, but we believe simplification should primarily come from removing overlaps, duplications and unnecessary layers (in particular, excessive detail in Level 2/3 measures and certain supervisory requirements/practices that effectively sit

on top of the rulebook), rather than from “simplifying” at the expense of lower risk sensitivity or higher burdens for institutions.

Risk sensitivity

Risk sensitivity is a key element of prudential regulation. Own funds, like liquidity, are scarce resources. Own funds requirements must therefore be proportionate to the risk level of the exposures.

CRR3, which transposes the final Basel III standards, has reduced risk sensitivity by restricting the use of internal models. Level 2 and Level 3 texts and supervisory guidelines have also limited modelling possibilities. This can be seen in practice in low-default portfolios such as specialized lending. This has concrete consequences, as some institutions no longer have the capacity to finance low-risk transactions. This could intensify as transitional measures expire and the output floor becomes more binding. We are cautious about proposals that reduce the risk sensitivity of RWAs, as they may dilute prudential incentives and ultimately be replaced by add-ons or management buffers, without delivering genuine simplification.

Risk sensitivity must therefore be preserved and should not be further reduced (and enhanced in certain cases, such as the specialised lending (with respect to the LGD input floors being too high and the slotting approach). At the same time, we would note that risk sensitivity and reduced complexity are not mutually exclusive (as implied with this question). Increasing the complexity of regulatory requirements may not ensure that the desired level of risk sensitivity is achieved, particularly in a context where such requirements are applied across different jurisdictions. The issuance of highly complex rules tends to generate complexity also in their implementation, which may make it difficult to ensure full compliance with regulatory and supervisory expectations. For example, as a minimum simplification of regulatory products should aim to consolidate existing regulatory guidance without changing the substance and structural technical aspects of existing guidance. This should be done cautiously and in full consultation with industry to avoid any unintended consequences. Nonetheless we do not consider this would cause regulatory instability and would help firms to navigate the current complex product landscape, which results in differing interpretations of the same requirements and which can cause delays in model development, model validation, supervisory review cycles, and model implementation.

We the above in mind, what we advocate for is avoiding mechanical increases in total requirements when RWA increases are driven by regulatory changes (e.g., CRR3) rather than by a deterioration in the risk profile. In such cases, it would be reasonable for the Pillar 2 approach (in particular P2R, where expressed as a percentage of RWAs) to be reviewed or recalibrated to prevent double counting and ensure proportionality. The objective should be to reflect the underlying risk, not to automatically amplify the impact of Pillar 1 reforms.

Capital requirements

The capitalization level of European banks has reached a satisfactory level. It is important for Europe to stabilize capital requirements. As part of the simplification agenda, the European Commission should therefore ensure that risk-weighted assets (RWAs) are not further increased, given that they have already grown by almost 16% since 2014 as a result of regulatory reforms and supervisory pressure. The European Commission should also ensure that necessary adjustments to capital buffer mechanisms do not result in higher capital requirements for banks at individual bank level. In this regard, if simplification ultimately increases effective requirements or makes the issuance of instruments more expensive, it would run counter to the objective competitiveness. Moreover, reduced complexity does not necessarily result in higher capital requirements. A good example comes with the recognition of CRM in the form of immovable or movable properties: operational requirements such as valuation deserve enhanced proportionality to better represent the collateral risk profile while further allowing for proper risk mitigation.

Resilience / financial stability

Both the authorities and the banking industry agree on the importance of preserving financial stability. The strength of banks has enabled them to withstand the successive crises since 2020. Far from being a source of problems during these periods, banks have demonstrated that they can play a supportive role for economic actors. Resilience and financial stability must therefore be preserved.

Reducing regulatory complexity is important, but we believe simplification should primarily come from removing overlaps, duplications and unnecessary layers (in particular, excessive detail in Level 2/3 measures and certain supervisory requirements/practices that effectively sit on top of the rulebook), rather than from "simplifying" at the expense of lower risk sensitivity or higher burdens for institutions.

Eliminating overlaps in the regulatory framework (for example between MREL and TLAC or between P1, P2 and buffers), correcting biases in the standards so as not to penalise the financing of the real economy, reducing the operational burden, simplifying the macroprudential framework and removing gold-plating are all measures that can be considered without undermining resilience and financial stability.

Holistic view of framework

Finally, any potential increase in contributions to other last-resort mechanisms (e.g., deposit guarantee schemes or resolution funds) should be evidence-based and assessed holistically alongside the broader prudential and resolution stack, to avoid unintended increases in the overall cost of intermediation.

51. **The Single Rulebook for banking is based on both directives and regulations. Unlike regulations, directives must be transposed into national law, which can lead to different applicable legal framework applicable across Member States. In your view, which provisions currently set out in directives, such as the Capital Requirements Directive (CRD), the Bank Recovery and Resolution Directive (BRRD) or the Deposit Guarantee Scheme Directive (DGSD), would be more effectively established through directly applicable regulations, and for what reasons, if any?**

EU legislation that requires transposition into national law can create significant challenges. These national provisions are sometimes difficult to identify and they are drafted exclusively in the local language, making them difficult for banking groups operating on a cross-border basis to understand and apply consistently.

Since these national rules may deviate from the original EU text – and therefore differ from one Member State to another – it prevents the harmonization of related processes. This results in significant additional implementation and operational costs for pan-European institutions. The following provisions currently set out in the CRD would benefit from moving to directly applicable regulations to enhance harmonisation and reduce gold-plating: SREP framework and stress testing requirements.

For other aspects of the CRD, moving to a more harmonized approach is not possible due to local aspects of implementation. As regards other directives in place, adapting these to a regulation would only be workable if the Level 1 texts are less prescriptive than they currently are and if a more principles-based approach is adopted across the board going forward.

National differences stemming from the transposition of directives, national discretions, or heterogeneity in buffers also continue to generate fragmentation within the Single Market. This particularly penalizes cross-border activity and hampers the efficient management of capital and liquidity at group level, with a direct impact on competitiveness.

Finally, another type of issue that adds undue complexity for EU international banking groups

is the interaction of the EU regulation with third countries regulation and equivalence provision.

52. Do you have concrete examples of gold-plating of EU rules via transposition of EU directives, national options and discretions? If so, please list them here.

Yes. AFME has repeatedly identified concrete examples where EU rules are effectively gold-plated through national transposition choices, the use of national options and discretions (OND), or supervisory implementation practices. While these measures can be motivated by legitimate financial stability or consumer protection objectives, AFME has consistently stressed that their cumulative effect undermines the single rulebook, fragments the Single Market, and disproportionately affects cross-border banking groups. The examples below are a non-exhaustive list of concerns raised with gold-plating of national discretions.

ECB OND guide

Example A: AFME's main concern with the ECB's O&D guide is that it took a more stringent approach than necessary with regard to ratings without government support "XGS ratings" on the basis of Article 138(g) in connection with the transitional application of national discretion as provided by in Article 495e of CRR3. The CRR3 grants NCAs the discretion to allow institutions to continue to use ECAI ratings in relation to an institution which incorporates assumptions of implicit government ratings until 31 Dec 2029. However, the ECB has granted this transition only until Jan 1, 2027, in the regulation accompanying its O&D guide, while other Member states (e.g. Germany) have taken full advantage of the 5-year transitional with respect to non-SIs. Given that there is only one such rating available from one of the major providers (the Fitch XGS rating) and this has not been approved by the relevant authorities (EBA/ESMA) for use, it is very unlikely banks will have sufficient rating coverage of via XGS ratings by the time the transitional ends on 31 Dec 2026. Even if the Fitch XGS rating were formally approved (e.g. via an EBA opinion), it will take time to onboard and gives rise to concerns with the market coverage and concentration risk that comes with a sole provider, as well as the policy intention to reduce over-reliance on ratings. Indeed, AFME has conducted a quantitative impact study (QIS) with GARP[30]and, based on those results, banks will face a material increase of around a 249% in RWA, and under a fully standardised approach which is used for the output floor the increase is around 306%, assuming that the Fitch XGS rating is not approved and that banks must assign all exposures to institutions to Grade C. Further, the exercise has demonstrated the complexity of mapping the exposures which are not covered by the Fitch XGS rating to the respective rating scale which would only increase costs and additional resource burden for banks until such XGS ratings are approved.

Moreover, implementation of this requirement without such XGS ratings being more widely available will impact direct lending, derivative exposures, SFTs and collateral recognition. Collateral eligibility for instance will be impacted, as debt securities issued by institutions will no longer be rated and satisfy Article 197(1)(c). Institutions will be required to derecognise this collateral unless the conditions under Article 197(4) can be proven (complex to implement on large scale). Capital forecasting and stress testing will also be impacted, due to the uncertainty of the expected treatment of the currently rated institutions over the coming years. Consequently, the aggregate level of capital will increase for exposures (direct, SFT, derivative) to institutions, despite the availability of reliable, robust credit assessments (which tend to have no IGS uplift). This is due to the risk-weighting treatment (in particular the punitive 150% RW) for unrated vs. rated, rather than a change in risk.

As an immediate next step, we are calling on the ECB to extend the transitional within the O&D guide as soon as possible to give firms sufficient time while they await regulatory approval of the Fitch XGS and S&P rating (the latter being is under development). It would also allow time for banks' development, mapping and use of XGS ratings and harmonise the EU approach for SI and non-SIs (where some non-SIs have longer to implement as a result of the approach of their NCA). We also suggest that the Commission addresses the issue within the

[30] The study was based on input from 8 EU and EU subsidiaries of non-EU headquartered GSIBs.

level 1 text to provide legal certainty and a consistent EU timeline for implementation – indeed we do not think this issue should have been left to the discretion of NCAs to implement in any case. Extending the transitional to the fullest extent possible would also allow for alternatives to be explored. Alongside this AFME is willing to support and facilitate workshops to promote consistent XGS rating development and regulatory certainty given the multiple stakeholders involved.

Example B: AFME was also concerned with the ECB's approach in respect to the national discretion in Article 49(1) related **to the non-deduction of equity holdings in insurance companies**. It is regretful that the ECB did not reflect the industry view that Article 49(1) should only apply to CET1, and not to all own funds instruments. We consider the application of the ECB's guide in this area of own funds lacks a legal basis and that the choice of applying Article 49(1) rests with institutions – it is not for the ECB to impose on its own initiative an application extending to other own funds instruments. Further, it is contrary to the principle of legal security and specifically protecting the legitimate expectations of institutions concerned in terms of maintaining the authorisations previously granted to them for CET1 instruments only. The ECB's approach therefore goes beyond the level 1 text in these respects and should be reviewed in the context of the EC's drive for simplification.

Example C: The **positive neutral countercyclical buffer** (CCyB) is an example of gold-plating in the transposition of directives that leads to an artificial inflation of the capital stack. It is not included in the international standards and set at discretion of individual jurisdictions, where the level considered "neutral" can vary between them, as can the methodology used for its measurement and the justification for its activation. If there was the desire to have a positive CCyB rate, this would in effect act as a static capital component not dissimilar to the CCoB. Therefore, a positive CCyB should be reflected in lower through-the-cycle requirements where the supervisor is given the option to offset a nationally activated CCyB through the P2. The UK's approach to bank capitalisation serves as a strong precedent for this proposal. As outlined in the PRA PS 15/20, the PRA may adjust firm-specific Pillar 2A (P2R equivalent) capital requirements to offset increases in the CCyB. This approach ensures that the overall level of loss-absorbing capacity in the banking system remains broadly constant, while preventing a "double counting" of risks. The core reasoning is to shift the balance of capital requirements from fixed minimums towards buffers that can be drawn down, thereby enabling banks to absorb losses while continuing to support the real economy through lending during a downturn.

Example D: The calibration of macroprudential buffers. Although these tools share an EU policy foundation, Member States frequently set buffer levels that diverge widely from each other, including cases of OSII and Systemic Risk Buffer requirements well above the ECB floor. These national decisions introduce additional capital surcharges that go beyond harmonised standards and result in different capital conditions for banks with similar systemic profiles. A further example relates to the broad and heterogeneous application of the Systemic Risk Buffer, where some Member States impose general or sector wide surcharges that overlap with other prudential tools. This extends the capital framework beyond internationally consistent practices and creates additional national layers of requirements.

Example E: The discretionary application of the intra-group large exposure framework constitutes an additional layer of fragmentation that hampers capital mobility and undermines the competitiveness of the Banking Union. Under CRR, national competent authorities may fully or partially exempt intragroup exposures from large exposure limits or apply reduced risk weights to such exposures. Nevertheless, some Member States impose stringent limits on intragroup exposures within cross-border banking groups. Some countries set a given percentage on Tier 1 Capital or RWA, while others allow supervisors to evaluate exposure on a case-by-case basis.

Example F: In conduct supervision, we can identify gold-plating in the transposition and supervision of MiFID II/PRIIPs. Examples include (i) extra national marketing and disclosure requirements on top of EU templates; (ii) additional product governance and "value for money" style tests that go further than EU baselines; and (iii) stricter adviser and documentation

obligations that add steps or certifications beyond EU rules. These national addons create different obligations for identical services and products across Member States, raising costs and deterring cross-border distribution.

EBA Level 2 measures

Going beyond the remit of this question, we feel it is also important to recall that in several instances the industry has identified examples in which the EBA's draft regulatory products (ITS,RTS or guidelines) have gone beyond, in both scope and in being overly conservative in its interpretation, that which was mandated by the co-legislators in the Level 1 text. Specific examples of this trend (primarily at Level 2 but not exclusively), include: the draft RTS on Prudent Valuation, the draft RTS on the allocation of off-balance sheet items and unconditionally cancellable commitment (UCC) considerations, the discount factor on artificial cash flows, or the draft RTS of the Business Indicator of operational risks.

- **Example A - Draft RTS on Off Balance Sheet (OBS):** the Draft RTS on Off Balance Sheet (OBS) Items, mandated by CRR 111(8), is still awaiting final approval by the EC and publication. This introduces several factors for eligibility of UCCs to a 10% CCF, which are not present in international standards and will have to be identified at high operational costs. This will constrain banks by limiting the scope of transactions which are identified as UCCs qualifying for a 10% CCF (and will negatively result in some of such exposures being assigned a higher CCF under Annex 1. This may create level playing field issues, considering the level 1 mandate goes beyond Basel that already increased the capital charge for such items through the application of a 10% CCF.

- **Example B - Discount of artificial cash flows:** The EU should also avoid gold-plating Basel in its modelling rules. The EBA requests banks discount recoveries on a loan at a rate much higher than the loan rate, thus creating fictive losses which highly over-states modeled LGDs (e.g. specialised lending). From an overall perspective, the issue is particularly pronounced in the discounting of artificial cash flows for facilities that return to a non-default status. Where a significant mismatch exists between the contractual interest rate and the discount rate (e.g. in mortgage portfolio), the resulting LGDs for cured exposures may become disproportionate and lack economic justification. Indeed, EBA Level 2 and Level 3 texts, as well as ECB guides, do not merely clarify the implementing arrangements of Level 1 legislation, in some cases, they increase complexity and reduce risk sensitivity by imposing constraints that go beyond the intentions of the co-legislators.

In addition to addressing the issues identified around these individual mandates, we would also encourage the EBA, European Commission and co-legislators to establish a mechanism and (quantitative) assessment enabling the continuous assessment of the cumulative impact of all RTS/ITS in the EBA's mandate to ensure there is no further Level 2-driven increase in capital requirements. This will be especially important considering the number of upcoming mandates that could have a capital impact on banks.

53. Do you have concrete examples of excessive government intervention in business decisions of banks? If so, please list them here.

AFME will not provide a response to this question.

54. How would you assess the level of enforcement of EU banking rules? How can this be improved?

AFME will not provide a response to this question.

55. How would you evaluate the various authorities responsible for banks in terms of:

		Fully agree	Somewhat agree	Neutral	Somewhat disagree	Fully disagree	No opinion
… effectiveness (the extent to which authorities identify weaknesses and address them)	Supervisory authority	X					
	Macroprudential authority						
	Resolution authority				X		
… risk-based (the extent to which authorities focus on the most material risks in a proportional way)	Supervisory authority					X	
	Macroprudential authority						
	Resolution authority					X	
… efficiency (extent to which authorities are reacting timely and are outcome focused)	Supervisory authority				X		
	Macroprudential authority						
	Resolution authority				X		
Other							

Please explain.

ECB Banking Supervision

We acknowledge and welcome the ECB Banking Supervision's recent initiatives aimed at simplification and better prioritisation in supervision. In particular, the establishment of the ECB's High-Level Task Force on Simplification, the launch of the "Next Level Supervision" project, and the 2024–2025 SREP reforms demonstrate the SSM's intention to enhance effectiveness and efficiency. These efforts are steps in the right direction to make supervision more risk-based, proportionate and focused. It is crucial that such measures ultimately reduce unnecessary burdens on banks and support the overall competitiveness of the sector, without undermining the SSM's core objectives of financial stability and sound risk management.

Following industry feedback, the SSM has introduced reforms to make supervision more targeted, efficient, and risk-based, including:

- SREP Reforms
  - Flexible risk assessment system (RAS), multi-year assessment (MYA), and risk tolerance framework (RTF) to focus on strategic priorities.
  - Shortened SREP timeline and extended right to be heard period.
  - New tiered approach to findings and measures.

- Next Level Supervision Project
  - Streamlined decision-making and digitalisation initiatives.
  - Simplifying supervisory activities such as OSIs.

Nonetheless, these positive initiatives have not yet delivered tangible relief for supervised institutions. There remains a considerable gap between the SSM's simplification commitments

and actual outcomes observed by banks. Many of the reforms appear to be internally focused in order to streamline the SSM's own processes, with limited direct burden reduction for banks in practice. We note that expected benefits - such as ensuring risk-based and proportionate supervision - have yet to be felt in earnest by supervised institutions. In some areas, the overall supervisory intensity appears to have even increased or shifted rather than diminished. We are mindful that certain reforms are still being implemented, but we believe that there is little to no external oversight and accountability for delivering on the commitments made on simplification. Therefore, we urge the European Commission to play a stronger role in monitoring and ensuring that the SSM follows through and delivers meaningful changes to the simplification agenda.

From a competitiveness perspective, the challenge is not limited to individual supervisory actions. Rather, banks increasingly experience a cumulative burden arising from the interaction of Level 1 legislation, Level 2 technical standards, Level 3 guidance and supervisory practices. Expectations at different levels are rarely reviewed holistically, and new requirements are often added without the systematic removal or de-prioritisation of earlier ones. This accumulation effect significantly increases operational complexity and diverts resources away from managing the most material risks.

In particular, we would highlight:

- Supervisory activities such as OSIs, IMIs, or deep dives remain resource-intensive and disproportionate compared to other jurisdictions. These activities are often rolled out without sufficient ex-ante cost–benefit analysis or ex-post evaluations to confirm that they remain risk-sensitive and effective, concentrated in particular times of the year, sometimes overlapping with other or similar activities. We also observe a lack of internal coordination between the SSM's JSTs and the onsite teams, meaning that there is a lack of bank-specific knowledge of the teams conducting supervisory activities.

- In addition, banks report a lack of predictability and prioritisation discipline in day-to-day supervisory practice. Supervisory activities are frequently initiated outside the annual supervisory plan, including ad-hoc deep dives, inspections or one□□off information requests, often without a clear bank-specific risk rationale or effective consideration of whether the same risks are already addressed through planned activities. This contributes to uncertainty, fragmented prioritisation and inefficient use of both supervisory and bank resources, and is difficult to reconcile with the objective of genuinely risk-based and proportionate supervision.

- The new risk-based tiering of supervisory findings (introduced to focus on material issues) has so far yielded little visible relief: in practice, low-severity findings often still demand internal audit efforts, so banks see no reduction in workload for low severity findings.

- Whilst SREP letters have been shortened and made more focused, this has not resulted in a reduction of recommendations, which now we understand are frequently issued separately via operational acts, meaning the total volume of supervisory "asks" on banks has not decreased in substance. Indeed, some banks report that the number of supervisory recommendations has even increased after these changes, due to the parallel communication channels.

- Similarly, while the ECB has stated publicly that it aims to streamline regulatory reporting, some firms are experiencing the opposite, with the number of manual data collections in recent supervision plans having increased relative to previous years.

- Ad-hoc supervisory data requests are particularly burdensome, as they often require manual aggregation of data under tight deadlines. Because these requests fall outside standard reporting cycles, production processes are rarely automated, and in some cases requests are modified or withdrawn after substantial effort has already been incurred, further amplifying inefficiency and cost.

- We also note a lack of transparency and industry engagement around major upcoming supervisory changes – in particular, the SSM's updated Pillar 2 Requirement (P2R) methodology which will be used for the 2026 SREP cycle. Despite repeated SSM announcements on transparency on methodologies, the SSM has not provided any meaningful information on its new Pillar 2 R methodology or indeed consulted on the announced changes. Despite a pilot methodology run in the 2025 SREP, we understand that little to no information has been provided to banks ahead of 2026 go live of the new methodology, despite repeated calls from industry to do so. The absence of detailed communication or consultation hinders banks' ability to plan capital and risk management effectively, and risks undermining confidence in the SSM's commitment to transparency.

- Beyond the lack of advance disclosure of the revised Pillar 2 Requirement methodology, banks also highlight persistent opacity around how P2R outcomes are determined in practice. In particular, the increasing role of supervisory judgement, combined with the removal of an explicit link to ICAAP outcomes, has reduced transparency and predictability. Unlike in some other jurisdictions, supervised institutions are not provided with a quantitative breakdown of how individual risk drivers contribute to the overall P2R, constraining effective capital planning and risk management and increasing uncertainty around supervisory capital add-ons.

- There are also several instances where the ECB supervisory expectations are perceived to go beyond existing regulatory requirements or develop supervisory expectations before EU rules are finalised. This effectively establishes quasi hard requirements (or 'soft law') in practice, potentially challenging the established hierarchy of norms.

    - For example, the so-called desk-mapping review imposed detailed organisational requirements on trading desks without a clear legal basis, and banks were asked to report on CRD6 Article 21c implementation before the CRD6 has been transposed into national law.

    - More broadly, banks report repeated instances where supervisory expectations are introduced ahead of the finalisation or transposition of EU rules or technical standards. This forces interim implementation based on incomplete frameworks, followed by costly reengineering once the legislative process is complete, undermining legal certainty and increasing compliance costs without clear prudential benefit.

    - Similarly, supervisory guidance on topics like cloud outsourcing (DORA) and climate risk management have gone beyond what EU legislation or EBA guidelines at that time have required. While we appreciate the SSM's efforts to clarify expectations and promote best practices, these actions at worst blur the line between supervision and regulation. Such practices are not accounted for in the SSM's simplification agenda, yet they contribute significantly to complexity and burden for the banking sector. We believe supervisory expectations should be firmly grounded in existing laws and genuinely risk-based.

- Whilst we welcome that the SSM does make its expectations clear, a more consistent form of communication would be welcome. Currently, the SSM communicates detailed supervisory expectations through various channels (e.g. blogs, speeches, articles, ECB guidelines, etc.). For instance, in November 2024, the ECB published **Sound practices for intraday liquidity risk management** in the context of a supervision newsletter. Here the ECB states that "*The sound practices identified will be used for future follow-up with banks*", attributing a binding character equal to an expectation with the difference that these were not consulted on or formally communicated. A more formalised consultation and communication approach would help to ensure expectations are proportionate, clear, and transparent.

- The ECB's approach to ESG supervision is not sufficiently calibrated to actual risk or materiality. Despite the ECB's own exercises showing that climate-related risks have limited systemic impact, its supervisory expectations remain expansive and continue to grow.

Treating climate and environmental risks as a distinct, standalone category is inconsistent with how banks actually manage risk, where ESG factors operate as drivers of traditional risk types such as credit, market, and operational risk. The broad and prescriptive nature of current supervisory expectations diverts resources from the management of risks that may be more material to a given institution, such as cyber risk or geopolitical risk. We note that the ECB has acknowledged these shortcomings in its December 2025 High-Level Taskforce simplification report and has committed to more proportionate and risk-based processes. We encourage swift implementation of those commitments.

We fully recognise the SSM's commitment to improving its supervisory approach, and we acknowledge the positive steps taken so far. However, there is a clear need for further, concrete action to bridge the gap between high-level simplification commitments and day-to-day supervisory intensity. European banks remain subject to a continuously intense and detailed supervisory regime, and the intended benefits of simplification, for example in terms of enhanced competitiveness have not yet been realised.

We therefore hope that the European Commission considers these points and supports reinforcing the drive for supervisory simplification as part of its broader competitiveness agenda. This could include the following recommendations:

- The SSM should engage in consultation and conduct impact analysis before implementing major supervisory changes. For example, any significant new methodology change, or large-scale data request should involve early dialogue with affected banks, communication of proposals, a consultation process and rigorous ex-ante cost–benefit analysis. Additionally, the SSM should conduct ex-post evaluations of such measures to verify that they are risk-sensitive and effective in practice.

- The SSM should fully implement a risk-based and proportional approach across all its supervisory activities. This means prioritising supervisory attention on material risks, while scaling back the volume and frequency of exercises focused on lower priorities, as well as ensuring that activities remain focused on initially identified areas and do not become broader over time. We recommend calibrating the intensity of inspections and reviews to each bank's risk profile to avoid a one-size-fits-all approach. The SSM should also evenly spread supervisory activities over the year to prevent undue overlaps or concentration, and track the total supervisory engagement per bank, with a view to prevent overburdening any one institution.

Single Resolution Board

We welcome the efforts the SRB has made to engage with industry and to respond to industry feedback regarding its expectations of firms. Notwithstanding the SRB's openness to engage and consult with firms on policy topics, industry remains concerned that expectations are not sufficiently risk-based or outcome focused.

For example, while the SRB has emphasised a focus on banks' capabilities, this is not sufficiently translated into clear and practical operational guidance for firms. This is a theme industry has frequently raised in responses to consultations. Furthermore, proportionality often appears to be considered in a narrow sense, focusing primarily on the applicability of expectations to smaller banks. In our view, proportionality should also be considered in terms of not exceeding what is necessary to achieve the SRB's objectives. AFME encourages the SRB to assess on a continuous basis whether expectations are limited to what is necessary, focused on banks' capabilities (including the testing of capabilities or the reliance on proven track record), and appropriately targeted. Currently, for example, there is a tendency to address certain resolution topics through highly granular and prescriptive measures that are applied across all banks, regardless of their risk profile, resolution strategy or proven capabilities. This approach risks conflating formal compliance gaps with genuine operational weaknesses and results in a one-size-fits-all response that is not sufficiently targeted. It would be more appropriate to focus on banks' ability to react to a potential crisis and on areas where

risks are higher or where weaknesses have been identified, instead of requiring banks to prepare highly prescriptive arrangements across all areas as if resolution were imminent. The current approach places a disproportionate burden on banks in terms of resources and costly investments without a commensurate improvement in resolvability outcomes, which seems to contradict the stated simplification objectives.

Similarly to the ECB, the SRB also contributes to complexity in the framework through its promulgation of soft law in the form of its policy documents (manuals, handbooks, expectations, guidance documents and FAQs). While these are not formal rules, they are consistently enforced in practice as binding requirements by supervision teams. Recent examples include, among others, requirements to plan for the use of 'variant resolution strategies', and expectations on valuation capabilities. While it is important that firms maintain capabilities to mitigate the resolution execution risk that the SRB is seeking to address with these policies, the scale and granularity of the SRB's requirements are often disproportionately costly (creating one-off and ongoing overheads), especially since many capabilities would only be used in the unlikely event that the main resolution strategy failed – a "tail of the tail" event. These detailed and prescriptive soft laws undermine banks' ability to implement rules in a manner that both meets the intended outcomes and makes sense for their operating models. By narrowing room for reasonable and proportionate interpretation, they may inadvertently limit innovation and competitiveness. The SRB should adopt a more proportionate and risk-based approach to the design of its policy documents that considers viability of a firm's resolution strategy holistically (including consideration of support from the parent in the case of non-EU headquartered banks) before applying contingent planning obligations.

To support transparency, we also encourage the SRB to share in future consultation processes its assessment of the justification for expectations, informed by a robust cost-benefit analysis, which should be published as part of each consultation. Requirements have changed significantly over time, requiring further investments and resources while rendering previous investments obsolete.

To further support a risk-based approach, we also recommend that the SRB review how it communicates its expectations of non-EU headquartered entities that are not resolution entities. We propose that the SRB set out explicitly where its guidance and expectations do not apply to non-EU non-resolution entities and instead continue to coordinate with resolution entities at international level to ensure requirements for these entities remain appropriate. Crisis Management Groups and institution-specific cross-border cooperation agreements already provide for this.

Additionally, we emphasise the importance of effective join-up between Internal Resolution Teams and horizontal policy teams to support a risk-based and outcomes focused approach.

We consider that there is significant scope for simplification and have made recommendations in this respect in response to Question 75.

56. How would you rate the degree of accountability of various authorities responsible for banks?

	Low	Somewhat low	Adequate	Somewhat high	High	No opinion
Supervisory authority	X					
Macroprudential authority	X					
Resolution authority	X					

Please explain.

ECB Banking Supervision

We consider that the accountability of the ECB Banking Supervision could be increased to ensure its supervision is risk-based and proportionate, and its supervisory expectations are in line with legislation. While formal reporting and oversight channels exist, they are either limited in scope or insufficiently robust to ensure full accountability:

- The SSM Chair appears regularly before the European Parliament (ECON Committee) and the SSM submits annual reports. However, these interactions often remain focused on general issues of financial stability, not on proportionality of supervision or alignment of the SSM's supervisory expectations with legislative provisions.

- The European Commission's triennial SSM Review (mandated by the SSM Regulation) is a high-level, retrospective evaluation of the SSM's functioning. While valuable, it provides only periodic and broad oversight, without real-time scrutiny of day-to-day supervisory practices. There is no continuous monitoring mechanism at the political level to ensure that the SSM's actions align with the EU's objectives (e.g. competitiveness, proportionality) or legislative provisions.

- The SSM's Administrative Board of Review (ABoR) can review certain supervisory decisions, but its remit is narrowly defined, focusing on potential procedural errors in individual decisions. It does not cover supervisory guidance or broader practices. Furthermore, ABoR opinions are not published, which means its work lacks transparency and has limited value as a general accountability precedent.

- The ultimate recourse for challenging ECB supervisory decisions lies with the ECJ. However, this avenue also presents significant limitations. (1) The ECJ only reviews formal ECB acts that have a binding legal effect, meaning that meaningful informal supervisory actions, such as JST letters and OSI reports, fall outside its scope. (2) The Court takes a conservative approach to admissibility, often rejecting cases on the basis of lack of legal standing. (3) ECJ proceedings are lengthy, which limits their effectiveness where a supervisory decision has an immediate impact on a bank's operations. (4) Challenging decisions at the ECJ level is also considerably more burdensome than at the national level, both in terms of cost and procedural complexity. (5) The ECJ has historically tended to side with the ECB in supervisory disputes.

We note that at the national level, some Member States have established more appropriate accountability mechanisms to ensure that supervisory authorities do not exceed, or indeed fall short, of their legal mandates. For example, in Germany the Federal Ministry of Finance (BMF) exercises legal oversight over BaFin's supervisory "standard-setting" actions and monitors both the legality and fitness for purpose of BaFin's administrative actions, to ensure these stay within legislative bounds, and do not go beyond or below legislative standards. No equivalent external check exists for the SSM at the EU level. As expressed in our response to Question 55 of this consultation, we believe that ECB supervisory expectations are sometimes perceived to go beyond existing regulatory requirements or develop supervisory expectations before EU rules are finalised. A lack of a formal mechanism for governments or EU institutions to systematically review or challenge such actions underscores a shortfall in accountability.

Achieving meaningful simplification also requires addressing underlying supervisory culture. In practice, supervisory staff may be rewarded for exercising overly excessive caution and applying extensive procedural checks, while little incentive exists to de-prioritise legacy expectations or accept differentiated but adequate approaches. Without addressing these cultural drivers, simplification initiatives risk remaining internally focused process reforms rather than delivering tangible burden reduction for supervised institutions.

To strengthen SSM accountability, we propose that the European authorities consider establishing a structured oversight mechanism at EU level. For instance, the Council's Financial

Services Committee (FSC) or another dedicated body of the Council could be tasked with periodically reviewing the SSM's supervisory practices in detail. For instance, this body could examine whether SSM's supervisory expectations remain within EU law, evaluate the proportionality and burden of its supervisory activities, and ensure alignment with the EU's broader economic objectives. Such an oversight framework, similar to that of what a member state level accountability mechanism, would complement existing accountability channels. Alternatively, inspiration may be taken from the current Market Integration & Supervision Package proposed by the Commission whereby the chair of ESMA, upon which new supervisory powers are conferred, would be required to appear annually before the Council, and more frequently on request.

Additionally, while the ABoR can provide a relatively swift form of recourse, we believe its structure and transparency could be enhanced. Specifically, we recommend expanding its remit to include the review of underlying supervisory assessments and informal practices. Furthermore, its proceedings and opinions should be made public to strengthen transparency, predictability, and trust in the supervisory appeals process.

Finally, we suggest that a form of secondary competitiveness mandate be given to the SSM so that it has regards to the international competitiveness of the banking industry when carrying out its supervisory duties without this mandate overriding its primary function of ensuring financial stability.

Single Resolution Board

Regarding the SRB, we recognise its important role and the steps taken to improve engagement with industry. However, members have voiced concerns regarding its limited accountability. Mechanisms are in place to support transparency, but in practice, EU courts may refuse to intervene on the substance of matters that they consider to be technical and scrutiny from the European Parliament has not led to changes in approach where this is justified. Furthermore, while the SRB consults with industry, industry concerns are not substantially addressed.

We consider that banks should be able to more easily and efficiently challenge decisions by the SRB. To address some of the shortcomings described above, we recommend reviewing the SRB Appeal Panel, which has proven to be slow and ineffective in dealing with banks' complaints. To ensure quicker decision-making and conclusions to complaints, banks should be allowed to challenge the SRB's decisions and policies directly to EU courts. The remit of the SRB Appeal Panel should also be extended to opine on the validity and legality of the SRB's policies. An essential condition to increase the accountability of the SRB is to make the SRB Appeal Panel fully autonomous and independent from the SRB itself. Currently, there is no forum within which the legality and validity of the SRB's policies can be challenged.

57. Has your institution granted loans where intellectual property (IP) rights (patents, trademarks, designs) were accepted as: stand-alone collateral or collateral only in addition to tangible assets? Please indicate the approximate share of total SME/scale-up lending for each category.

For intangible assets such as intellectual property (IP) rights to be recognised as collateral, the regulatory conditions would need to be closely analysed and the texts amended - intangible assets are not recognised in either the SA or the F-IRB approach. CRR would therefore require amendment to render IP rights eligible. Even if these assets were to become eligible (if they were not automatically excluded), verifying all the eligibility conditions would be difficult.

For example, Article 199 (6) presents issues for physical assets and would consequently be impossible to meet for intangible assets. This highlights a broader concern we have with the current FCP framework that the existing collateral catalogue is both rigid and outdated, excluding economically relevant and credit risk-reducing asset types such as regulatory licences, concessions, and other enforceable intangible assets.

Moreover, the requirement to value collateral on a standalone basis fails to capture the integrated value of and risk reducing effects of collateral packages related to going-concern businesses, which is often the foundation for credit decisions in modern banking. This results in exposures being treated as unsecured or subject to high minimum LGDs, even when the collateral (package) clearly mitigates credit risk. This is particularly problematic for sectors and business models where non-physical assets are central to value creation and creditworthiness.

We therefore encourage the Commission to consider a broader review of the FCP framework. This should include both the scope of eligible collateral types and the valuation principles underpinning their recognition. Such a review would not constitute deregulation, but rather a necessary modernisation to ensure that the prudential framework reflects today's credit practices and supports effective risk management, financial stability, and access to finance. Please also refer to Q60 on Article 199(6)(d).

57.1. If intellectual property rights are not used as stand-alone collateral, please indicate the main reasons:

	Fully agree	Somewhat agree	Neutral	Somewhat disagree	Fully disagree	No opinion
Regulatory capital treatment		X				
Valuation uncertainty						X
Legal enforceability concerns						X
Internal risk policies						X
Lack of risk-mitigation instruments						X
Other (please specify)						

Please explain.

58. Which of the following EU-level measures would materially increase your institution's willingness to lend against intellectual property assets?

	Fully agree	Somewhat agree	Neutral	Somewhat disagree	Fully disagree	No opinion
Public guarantees covering part of IP-backed loans						
IP collateral protection insurance supported by public schemes						
EU-level standardised IP valuation methodologies						
Securitisation frameworks for IP-backed loan portfolios						
No measure would materially change our current approach						

Please explain.

AFME will not provide a response to this question.

Prudential Framework

59. What are the areas that create undue complexity in the prudential framework, if any? What are the ways to reduce undue complexity in the prudential framework without leading to deregulation and undermining financial stability?

Complexity in the microprudential framework

The microprudential framework with its two components a) microprudential **regulation** and b) microprudential **supervision** with the associated supervisory policies is complex due to its size but also duplicative aspects where supervisory policies go beyond the regulatory requirements. Prominent examples of supervisory policies exceeding regulatory requirements are Prudent Valuation, climate risk management and the NPL supervisory backstop.

A. Regulatory complexity

To illustrate the **Level 1 complexity**, we are concerned by the excessive conservatism in the existing PruVal framework, which has a material capital impact and significant operational burden.

As background, PruVal is a prudential capital overlay on the accounting rules for fair valuation of both trading and banking book assets. PruVal was created to address valuation issues related to the 2008 financial crisis. These issues have since been tackled worldwide through various reforms, including improved accounting standards (IFRS 13) and stronger oversight and new prudential Market Risk rules (FRTB).

The EU follows Basel CAP50 guidance on Prudent Valuation, but neither the guidance nor the regulations from most non-EU regulators mandate the need to achieve 90% confidence in CET1 via additional valuation adjustments (outside of the EU only the UK and South Africa have this requirement). This approach causes outsized market reaction (as observed during Q1 2020), procyclicality and competitive disadvantage for banks operating in the EU.

There is also double counting of risk with FRTB, for example through the Residual Risk Add On (RRAO) framework. As a result, PruVal calibration leads to excessive capital deductions for EU banks, without a corresponding contribution to financial stability. This is especially the case for elements that lead to double counting of risk, beyond regulatory requirements, such as the treatment of Day One Profit deferrals, stemming from EBA Q&A 2019_4458. The Operational Risk add-on to AVA is a further unintended regulatory add-on due to the EU framework (through an EBA RTS) failing to reflect the mandatory phase-out of internal models for Operational Risk for all EU banks.

The EU's approach to PruVal is therefore misaligned with its priorities in terms of simplification and competitiveness. It does not support the growth of European capital markets and unnecessarily traps bank capital which could be better deployed in the real economy.

Therefore, we recommend removing PruVal from CRR to support the competitiveness of banks operating in the EU and to ensure alignment with many other jurisdictions.

To illustrate the **Level 2 complexity**, the EBA has about 145 mandates stemming from the CRR3/CRD6. A number of those are relevant clarifications, however they can add significant complexity and tend to have a conservative interpretation of the level 1 text making them prone to "gold-plating" (See Q52).

Recommendation: EBA Simplification Initiatives – We encourage the EBA's ongoing review of regulatory products and the new two-step materiality and burden/usefulness methodology. It would be valuable to track and map the results of these initiatives to ensure accountability and real simplification. **In addition,** the EBA should maintain an ongoing regulatory grid which updates on a quarterly basis the progress of regulatory products which

are due for publication. This will help banks prepare themselves and their clients for forthcoming rules. Likewise, for RTS and ITS the European Commission should also be required to have a regulatory grid of when they are expecting to submit delegated acts to the European Parliament and Council.

B. Supervisory complexity

Many supervisory policies, e.g. around ESG, governance, and supervisory business analysis, do not contribute to identifying substantial risks or systemic risks in banks. In fact, the large number of detailed rules in non-critical areas distract supervisors from thinking about and analysing actual risks. They lack time to focus on substance. Also, supervisors adopt overly technocratic approaches, for instance by requesting in detail banks' business and capital planning over a period of 4-5 years ahead, which only detracts from the identification of actual risks. We would argue that regulation and supervision should take stock and identify the rules that are relevant to identify substantial risks in banks and the system and focus on those with rigor and resources. Process-driven regulation and supervision should be reduced to a minimum. Similarly, the microprudential framework has been developed in non-financial and financial risk strands. Historically, interoperability and interdependence of various frameworks have not been a focus but is now increasingly part of considerations. We would recommend regulation focuses more on interoperability and **limit new risk specific or non-risk-based regulations to a minimum**. We also recommend making more use of **outcome oriented, principle-based rule making** that is based on effective communication between regulators/supervisors and the regulated entity.

Both the **risk-weighted capital framework and the LR framework** include institution-specific Pillar 2 guidance (P2G), which is a legally non-binding capital expectation above the CBR and the LR buffer set by micro-prudential authorities. In the risk-weighted capital framework, P2G should be set at a level appropriate to cover the additional expected capital depletion in an adverse stress test scenario at the very least as compared with a baseline scenario. Failure to meet the P2G triggers increased supervisory focus, which is a much milder consequence than would be the case in the event of a breach of a minimum requirement or the CBR.

Recommendations

(i) Focus on supervisory policies that identify and address substantial risks in banks. Focus more on interoperability and limit new risk specific or non-risk-based regulations to a minimum.

(ii) We also recommend making more use of outcome-oriented, principle-based rule making that is based on effective communication.

(iii) Use P2G as a softer guideline and not "pass/fail" threshold that can trigger supervisory intervention.

Beyond ensuring that rule-making is principles-based, it would also be beneficial for supervision itself to follow a less prescriptive approach, adopting a more risk-based methodology that allows for proportionate application across institutions (see comments for Q49).

C. EU regulatory reporting

Please refer to question 90.

Complexity in the macroprudential framework

EU banks face a stack of seven capital buffer layers, three of which (CCyB, SyRB, and the O-SII buffers) are set at national discretion. As a result, a cross-border banking group operating across all EU Member States may be subject to as many as 86 distinct buffer layer requirements*2* (including 27 national CCyB, SyRB, and O-SII calibrations). This stands in contrast to the United States, where the going-concern capital framework comprises only three uniform, nationwide buffer layers. We recommend streamlining the macro-prudential framework by removing the systemic risk buffer. The CCyB and the G-SIB/O-SII buffer would remain. The proposal abolishes the (SyRB) as an example of unnecessary layering, unwarranted national discretions, complex reciprocation mechanisms and unpredictability. The SyRB is a unique feature of the EU capital framework and has no equivalent either in the BCBS standards or in other major jurisdictions. The SyRB was meant to address systemic risks not already covered by macroprudential requirements in the CRR, other macro-buffers (CCoB, CCyB) and the G-SII/O-SII buffers. In practice such systemic risks have not been identified on a consistent, economically sound basis. It is a complex and non-transparent tool both in scope and level of application and suffers from a lack of usability.

In this respect we note that the ESG-related provisions in CRD6 are a significant source of undue complexity. They depart from the core prudential principle that risk management should be comprehensive, adequate, and proportionate by singling out ESG risk for prescriptive, standalone treatment that is not afforded to any other risk driver. Simplification of these requirements would not constitute deregulation. ESG risks would remain captured through existing obligations to manage all material risks comprehensively. What would be removed is the unjustified special treatment that creates complexity and compliance costs without corresponding prudential benefit. This is very relevant as the EBA has recently been consulting on changes to SyRB guidelines to integrate climate risks, which raises strong concerns on double-counting and we take note of the fact the EBA concluded in its cost/benefit analysis that there is no need for an in-depth quantitative impact assessment. Furthermore, creating a new buffer for every emerging uncertainty risks triggering an on-going inflation of capital requirements and introducing additional climate guidance that effectively expands the scope and operational complexity of the Systemic Risk Buffer (‘SyRB’) which appears misaligned with the broader strategic direction set at EU level. More generally, as per our answer to Q 70, AFME and its members continue to express the view that the SyRB as a measure harms EU competitiveness and should be discontinued – it provides unnecessary layering, unwarranted national discretions, complex reciprocation mechanisms and unpredictability.

The CCyB, which was part of the original Basel III accord, is a macroprudential tool that allows authorities to dynamically adjust capital levels of banking firms when the risks to financial stability are growing in relation to the credit cycle. In practice, national authorities take a wider range of financial-system vulnerabilities and other factors into account as they evaluate settings for the buffer. When authorities determine that vulnerabilities have risen to be meaningfully above normal, the purpose of the CCyB is to increase capital to a level that compensates for those other rising vulnerabilities and thus reduces risks back to a normal level. Some of those vulnerabilities have indeed been rising in recent years, and some national authorities have decided on using the CCyB. However, and in contradiction to the concept of countercyclical buffers, some member states have set standing, so called positive neutral CCyB rates without a macro-economic justification. The effect is a structural increase in the level of capital requirements through the cycle, as no compensation on other capital components is done in exchange. The argument of enhanced releasability as put forward by the proponents of the positive neutral CCyB is questionable given the general reluctance of policy makers to release capital once it is in the system. We would encourage policy makers to abandon the concept of “positive neutral” CCyB rates. In the EU as a whole, because of the strength of the EU’s capital requirements, the assessment of overall vulnerabilities remained moderate. This raises the question of whether the through-the-cycle capital levels in the EU have been set so high, that a form of countercyclical buffer is effectively already "on": we already have capital at a level that compensates for these increases in vulnerability, but we did not reach that capital level through activation of the CCyB. We have carried out an analysis that indicates that the P2 requirements are set with a countercyclical effect, if not a

countercyclical purpose, i.e., P2R is on average lower in periods of contraction and higher in periods of expansion. On P2G we also recommend countercyclical macroeconomic stress test scenarios as the basis to calibrate P2G levels. This follows the idea of a proactively steering supervisor that takes the state of the economy into account. This means, when the economy is in expansion as measured by a positive GDP output gap, the adverse macroeconomic scenario should be designed to be more severe reflected in larger cumulative loss of GDP which can ultimately lead to more stringent P2G levels. Conversely, when the economy is contracting, the severity of the ESRB scenarios should be relatively mild. The COVID period illustrates this idea well. The stress tests' scenarios were originally designed in 2019 for application in 2020 (i.e. before the pandemic). As the economy contracted sharply in 2020, the stress tests were postponed to 2021 and the ESRB revised the scenarios to a less stringent severity. Unfortunately, though, this is the only example where an active steering of banks' capital in relation to the state of the economic environment can be observed in the EU-wide stress test since its inception. Against the aforementioned shortcomings, we propose to calibrate the remaining macro component based on the countercyclical buffer (CCyB) and G-SII/O-SII requirements. We suggest resetting the CCyB to 0% across the EU at this point in time based on the through-the-cycle capital requirements that do have countercyclical characteristics and buffer economic cycles (see Figure 7) and euro area output gap (%). One could argue that with a buffer rate of 0% there is no way of acting countercyclically in a future downturn, however we think that the P2 elements can account for that with help of countercyclically calibrated stress test scenarios and appropriate calibration of P2R. If there was the desire to have a positive CCyB rate, this would in effect act as a static capital component not dissimilar to the CCoB. Therefore, a positive CCyB should be reflected in lower through-the-cycle requirements where the supervisor is given the option to offset a nationally activated CCyB through the P2. The UK's approach to bank capitalisation serves as a strong precedent for this proposal. As outlined in the PRA PS 15/20, the PRA may adjust firm-specific Pillar 2A (P2R equivalent) capital requirements to offset increases in the CCyB. This approach ensures that the overall level of loss-absorbing capacity in the banking system remains broadly constant, while preventing a "double counting" of risks. The core reasoning is to shift the balance of capital requirements from fixed minimums towards buffers that can be drawn down, thereby enabling banks to absorb losses while continuing to support the real economy through lending during a downturn.

Further, we propose abolishing O-SII requirements for all entities under a G-SII group as unnecessary layering and EU specific gold-plating. The EU concentrates circa 70% of the world's O-SIIs and the rates applied by NCAs have only increased, including for the G-SIIs. In addition, the ECB has updated its own specific extended floor methodology for the purpose of calculating the institutions' score which will apply from 2027 through a mandatory top-up of the OSII buffer. This will result in another buffer increase for some banks to align the EU with a few but consistent NCAs overly conservative approaches. For G-SIIs under the Banking Union, calibrating a separate O-SII buffer is duplicative of the G-SII buffer determined by the Financial Stability Board (FSB) standard. To an extent, it challenges the calibration determined by the FSB and can result in a buffer inconsistent with and higher than that prescribed by the FSB. We also suggest setting the O-SII buffer in reference to the EU Banking Union and not on the national economy. However, in order to acknowledge the fact that the systemic impact of the failure of an O-SII which is not identified as a G-SII is by construction lower than the systemic impact of the failure of a bank that has been identified as G-SII, the O-SII buffer rate should be capped at 0.75%, i.e. below lowest level of the G-SII buffer as per FSB rules to ensure effective discrimination between G-SII and O-SII buffers. This would also be a way to address the issue of the vast and undue heterogeneity of the O-SII bucketing methodology across Member States.

Complexity in the resolution framework

Gone concern capital aims to ensure banks have sufficient loss-absorbing and recapitalisation capacity to implement an orderly resolution. Requirements are set out under the EU's regulatory framework for resolution. As with going concern capital, gone concern is made up of multiple layers.

The interplay of MREL and TLAC requirements, and the overlapping loss-absorbing capacity obligations compound complexity.

External MREL/TLAC: The weighted average target level of *external* MREL for headquartered Banking Union entities in 2024 was 28% of RWAs, and that of non-HQ headquartered Banking Union entities was also 28% of RWAs. These are higher than in other jurisdictions and place Banking Union banks at a comparative competitive disadvantage. The target level for US HQ entities was 22%, while for UK HQ entities it was 27.3%.In addition, while in theory internal MREL can be waived, the requirements cannot be waived cross-border. This effectively traps capital and liquidity.

Internal MREL/TLAC: Where a bank is subject to the SRB oversight, the requirement for internal MREL requirements should not have to apply at the level of all subsidiaries. For subsidiaries of third country groups (which are non-resolution entities), we urge the EU authorities to align more closely with the FSB's standard regarding the 75-90% scaling range for internal loss-absorbing capacity. For Banking Union subsidiaries of Banking Union resolution entities, waivers should be made available to remove the requirement for internal MREL.

Recommendations: TLAC and TLOF without MDA triggers

(i) The AFME suggests using TLAC for the risk-based perspectives and TLOF for the assets-based perspective (replacing the leverage-based one) as the only resolution stacks applicable to all non-liquidation banks operating in the EU subject to possible flexibility regarding the subordination requirements. Similar to the political agreements on BRRD and SRMR[1], we recommend introducing a floor for smaller banks under TLAC.

(ii) For risk-based requirements, the proposal to only use TLAC and to extend its use to all EU resolution entities would mean one simpler, internationally agreed concept rather than two partially very complex ones. Focus on TLAC[1] would heal the current calibration mechanic whereby any increase in the going-concern stack automatically ends up almost doubled in the gone-concern one via the automatic calibration of Recapitalisation Amount Adjustments (RCA): as it stands, post-resolution considerations are not reflected automatically in RCA calibration leading to banks holding significantly higher contingent capital than actually required in practice. Lastly, the proposal removes conceptual misalignment in MREL, i.e. the market confidence charge: market confidence cannot be rebuilt via a buffer. We note that, if the proposal was to be adopted, more work is required for instance on topics like eligible instruments to cover TLAC (i.e. determination of Senior debt allowance) and multiple / single point of entry resolution models (e.g. deductions).

(iii) From a non-risk based (asset-based) perspective, TLOF would remain a mainly subordinated (subject to allowance foreseen in Art. 72b (3) CRR) requirement for all firms currently under MREL requirements. This proposal would significantly increase transparency and predictability for firms and all their stakeholders.

(iv) In the case of subsidiaries of non-EU banks subject to a group single point of entry resolution strategy, the calibration of internal MREL should be tied to the feasibility and credibility of the group resolution strategy and the extent to which that group strategy provides for the support of the subsidiary in resolution. This should be achieved through an internal MREL scalar, as envisaged by the FSB and as implemented by other jurisdictions. For Banking Union subsidiaries of Banking Union resolution entities, waivers should be made available to remove the requirement for internal MREL.

(v) Finally, MDA triggers currently embedded in the gone concern capital stack would be removed. Not having MDA triggers in the gone concern view is conceptually desirable because it avoids perceptions of stress and hence instability without actual cause for concern and would make the concept simpler, more transparent and easier to understand for investors. Indeed, cases where a bank would not breach its going-concern

capital requirements, CBR included, but would breach its loss-absorbing ones, CBR included, are much more likely to occur due to financial market disruptions than to bank-specific issues. In case of bank-specific issues, the going-concern MDA would likely be triggered too, making the loss-absorbing one largely redundant.

Complexity stemming from the interactions of the three frameworks

A. Micro and macro framework overlap (see also questions 71-76)

Potential for stress testing to lead to P2G to overlap with quantification under macroprudential framework.

So far, supervisory authorities have taken an overly conservative approach to maintain full stress test requirements, through the Pillar 2 guidance (P2G) in addition to the capital conservation buffer (CCB), being directly added to the national CCyB and SyRB ramp-up post COVID. Allowing for an assumption in the supervisory stress testing framework of partial or full reversal of country-level stress buffers (CCyB and SyRB) in the adverse trajectory could cancel the duplication of buffer requirements for an institution. A quarterly P2G update mechanism could ensure that, at any time, the sum of country-level and group-level buffers, complementary to the CCB, effectively matches the latest supervisory assessment of the institution's capital stress testing buffer needs.

Macroprudential and micro prudential capital buffers are calculated with similar macroeconomic scenarios, generating partial or full duplication of capital requirements when added into the capital stack: Considerations regarding the phase of the financial cycle, which are crucial for macroprudential authorities, are also likely to be integrated into micro prudential assessments under Pillar 2, to the extent they can affect the risk profile of individual institutions. The latest EBA supervisory stress test adverse scenario for example has been calibrated to reflect the recent concerns around geopolitical tensions. While the two perspectives are complementary, the proximity of policy objectives and the substantial overlap of their mandates and toolkits may result in sub-optimal decisions regarding capital buffers.

In addition, the increase to Pillar 1 by virtue of CRR3 application mechanically generates an increase in stress testing capital guidance due to its expression as a percentage of Pillar 1 risk weighted assets, which could be adjusted in the quarterly P2G update process.

Recommendations:

(i) Ensure no overlap between P2 and the CCoB; the CCoB should not increase the quantum deemed appropriate for P2, but can retain the MDA trigger for Basel compliance.

(ii) Simplification of stress-testing methodology that underlies the P2G.

(iii) Taking an assumption in the supervisory stress testing framework of partial or full reversal of country-level stress buffers (Countercyclical buffers (CCyB) and Systemic Risk buffers (SyRB)) will cancel double-counting of the stress test buffer. This should be included in the 2027 EU-wide stress testing exercise currently in preparation by EBA and ECB/SSM.

(iv) The P2G bucket determination, and later on supervisory P2G setting, should be driven by the solvency ratio depletion minus the conservation buffer and minus the starting point CCyB and SyRB. For example, the P2G determination for an institution having an average CCyB at 70bps and an average SyRB at 10bps at starting point, with a depletion of solvency ratio of 500bps in the supervisory stress test, should be 500 - 250 (= capital conservation buffer) – 70 (=CCyB starting point level) – 10 (=SyRB starting point level), with a minimum of 0, so in this example 170bps.

(v) A quarterly P2G update mechanism could ensure that, at any time, the sum of country-level and group-level buffers, complementary to the CCB, effectively matches the latest supervisory assessment of the institution capital stress testing buffer need.

B. Micro and Resolution Regime overlap

There is merit in a review of MDA thresholds due to overlaps with measures such as MREL, the new output floor, and Pillar 1 and 2 capital requirements, and because the actions taken in the Covid pandemic undermined the concept and usefulness of MDA.

Recommendation: Review MDA thresholds in conjunction with MREL, OF, P1-P2 capital requirements.

C. General recommendation to address overlap

Recommendation: To support engagement between competent and national designated authorities, limit overlaps across various requirements and streamline initiatives, we propose **establishing a centralized EU banking forum** between the relevant micro and macroprudential authorities to assess the suitability of overall levels of capital in the system, identify overlapping capital demands and consider the operational impact on firms. As well as being able to "top up" requirements should they be assessed as being insufficient, this body should be empowered to override or adjust for duplicative requirements.

Our proposal would be for this central forum to be established within a decision-making body such as the ECB's Governing Council (or a subgroup of the Governing Council to facilitate more efficient and integrated decision-making). This group would be tasked with an EU-wide holistic assessment of micro- and macroprudential as well as resolution requirements and for cross country overlaps to be addressed effectively. As mentioned at the top of our response, we would also call for this group to be mandated to assess the overall levels of capital in the system to ensure alignment of capital with risk and business models and to guarantee that capital requirements do not impede banks' ability to support the growth of the EU economy. We also support the ECB's High Level Task Force's recommendation to foster common methodologies and guidelines across the EU, including stress testing. This is an important step towards reducing the level of heterogeneity in capital decisions and to facilitate greater coordination and consistency in setting micro- and macroprudential instruments across jurisdictions.

60. Does the prudential framework balance sufficiently risk sensitivity and complexity? If not, how should this disequilibrium be addressed?

Own funds are a scarce resource. Regulatory capital requirements can therefore affect banks' business models (allocation of resources), as well as their risk appetite, the margins and pricing applied to transactions. In particular, they can hinder the financing of certain key sectors of the economy. It is therefore extremely important to preserve risk sensitivity – we have highlighted below priority areas for the Commission to focus on. Please also see our response to Q68 on the calibration of the Output floor.

Trade Finance

Trade finance is a critical enabler of the real economy in the context of EU trade policy supporting and defending EU industry and business. Stable issuance of financial instruments related to the movement of goods and services facilitates global and domestic trade flows in an ever more uncertain global political environment. However, while CRR3 recognised the low claim rates of trade finance products by retaining their CCF at 20%, some trade finance instruments may fall into a higher CCF bucket due to the definition of trade finance in the CRR, which has not been updated to reflect market practices and legal requirements for trade finance products which often extend beyond one year in maturity. Allocating a higher CCF to

such trade finance transactions thereby significantly increases the cost of funding these projects and leads to an unfair level playing field for EU banks. Insufficient recognition of risk mitigation mechanisms increases costs for end-users and constrains access to essential export and import financing for EU SMEs and corporates to export and import more widely.

Furthermore, by contrast the PRA has taken a clearer and comprehensive approach in its near final rules such that a 20% conversion factor will be assigned to all 'other transaction-related contingent items' that do not have the character of credit substitutes (including trade letters of credit). This was based on the empirical evidence from the International Chamber of Commerce and Global Credit Data provided in AFME's response to their consultation on Basel 3.1. The PRA concluded the data sufficiently addressed concerns that a 20% CF may not fully reflect the probability of a 'trigger event' occurring or the behaviour in downturn conditions (EU related data on the performance guarantees can be found here).

Recommendation: In terms of enhancing competitiveness and ensuring a common interpretation in all member states, AFME proposes the EU should clarify the definition of trade finance. Given that the PRA has extended the application of the 20% to a broad scope of guarantees, the European Commission to consider adopting a similar approach which would also better reflect market and bank practices and legal provisions for trade finance products which have evolved considerably since the original CRR. We suggest the definition should be updated as follows:

"trade finance' means a financial service facilitating the real economy, enabling businesses to finance, monetise, risk mitigate and settle trade flows, thus supporting the movement of goods and/or the performance of services regardless of maturity, both internationally and domestically'.

In line with risk assessment taken by the UK[31], review the treatment of all performance and technical guarantees, including those related to trade finance, and ensure these fall under bucket 4 in Annex 1 of the CRR (attracting a 20%CCF).

Treatment of Credit Insurance

The CRR3 unduly penalizes credit insurance, which supports the financing of ca. € 350bn of activities in the EU economy including for , infrastructure finance, SME and corporate lending as well as trade finance (roughly 25% of insured assets).[32]+[33] Further, while CRR3 mandated the EBA to assess the treatment of credit insurers under Article 506 (published in 2024[34]), it failed to sufficiently undertake the analysis required under paragraphs (a) and (b) to assess the prudential LGD for insured exposures and is therefore considered incomplete.
Compared with 8 % for US firms, three-quarters (73%) of the total insured exposure in 2022 has been contracted by European firms (EU 60% and non-EU 13%). This could be, amongst other factors, a reflection of a less deep capital market in the region which makes European banks more dependent on the use of insurance-based solutions for credit risk mitigation than non-European firms, thereby also diversifying their sources of credit protection.

With the removal of IRB-A for insurers, an exposure to a small or medium corporate or a specialized lending exposure such as project finance that commonly benefits from a credit insurance will potentially yield more own fund requirement after being insured, than an unsecured exposure, which is counterintuitive from a risk management perspective and would disqualify the recognition of the credit risk mitigation as per CRR Article 193(1). Should the

[31] The PRA has considered under its new framework other technical guarantees not related to trade finance and not being credit substitutes should have a 20% CCF, based on the rationale that the Basel 50% CCF "would result in capital requirements that are overly conservative" compared to the actual risk of these exposures and as it "may have some positive implications from a competitiveness perspective".
[32] See ITFA-IACPM bank survey 2023 showing volumes of lending facilitated by credit insurance (survey takes place every 2 years and will be redone this year).
[33] Credit insurance mitigates credit risk by allowing banks to partly insure itself against a default of a specific counterparty, which frees up risk capital for other lending
[34] https://www.eba.europa.eu/sites/default/files/2024-10/4f392d3d-289b-4286-aa78-d3ea2aca1744/Report%20on%20credit%20insurance.pdf

CRM still be recognized, this would be much less efficient since the F-LGD application ignores the policy holder status and dual recourse of the bank, which is super senior to other claims.

Indeed, as a reminder, credit insurance scheme relies on:

- The promise from a third party to pay the bank when a borrower or counterparty defaults in return for a premium, which is senior to its credit obligations;
- Issuance by a Solvency II-regulated non-life insurer (or equivalent – Switzerland / Bermuda);
- Dual recourse: Neither the purchase of credit insurance nor the receipt of protection payments under credit insurance extinguish the rights of the bank on the defaulting borrower;
- No pre-condition to work out the loan first; and
- All insurers used by banks are AA to A- externally rated and typically are large multi-line carriers with a well-diversified portfolio and different liquidity patterns.

Given the high reliance of European Banks on credit insurance schemes, with significant coverage of individual exposures, out of the € 350bn of financing, € 240bn could be at risk of disappearing35 and the loss of efficiency in credit risk mitigation represents an important impediment for new financing. This equates to 30% of the additional annual investments Mario Draghi believes are necessary to address the EU's investment gap.36

The impact will be felt by SMEs in Europe as well as on corporates and infrastructure financing where huge volumes of finance are needed in Europe. Europe therefore needs to act now if it wants to keep full access to this valuable and safe source of finance at a time when Europe's financing needs are continuously expanding.

Recommendation:

Banks would welcome an improvement to the rules on the application of FIRB and a straight substitution with respect to credit insurance schemes, so as not to penalize EU economy. AFME's concern is with the level of prescribed LGD.

Given credit insurance is, like securitisation, a risk sharing tool to mobilise more capital for the financing the economy, AFME believes this issue should be reviewed. Indeed, the 45% prescribed LGD level is too conservative and not in line with observed losses.

Article 506 mandated the EBA to do a comparison of observed riskiness of exposures covered by Credit Insurance with own funds requirements. A first data collection was undertaken by Global Credit Data[37] (GCD). ITFA, with the quantitative support of Deloitte, made an additional study, "The ITFA Additional Report"[38], based on losses data collected by GCD, in order to address article 506 request and concerns raised by the EBA. This included analysis of Margins of Conservatism and Downturn analysis, as well as the case of possible insurer defaults. Based on losses collected on insured portfolios of nine banks, the capital corresponding to such losses was calculated and compared to the regulatory required one. It shows that the required capital is two times higher than the observed riskiness measured in terms of capital

[35] Indeed, the ITFA_IACPM survey shows that 70% of all financing facilitated by credit insurance is motivated by capital relief.
[36] Draghi report: https://commission.europa.eu/document/download/ec1409c1-d4b4-4882-8bdd-3519f86bbb92_en?filename=The%20future%20of%20European%20competitiveness_%20In-depth%20analysis%20and%20recommendations_0.pdf
[37] Data of losses on insured exposures collected from 9 European banks, covering the period 2009-2023 with 1087 claims on 151 defaulted facilities, resulting in an average LGD of 5,9%.
[38] ITFA_Additional_Report_506-vf.pdf

(unexpected losses). Therefore, the LGD to be applied in the substitution approach when there is a credit insurance should be half the current F-IRB LGD.

See below a comparison of observed riskiness and own funds requirements.[39]

Insured exposures	Observed riskiness	Own funds requirements
Credit-insured loans	16% RW	34% RW

This analysis on insured exposures was completed by the computation of an LGD for direct exposures to insurers and based on GCD data, it also leads to an LGD of 22.5% , all margins included.

Consequently, AFME recommends calibrating a level of LGD that reflects the observed level of risks. An acceptable level would be an F-LGD policy holder around 22.5%, similar to collateralized LGD, as demonstrated as the more appropriate level in the additional report.

Article 199(6)(d) – conditions for IRB physical collateral eligibility

Article 199(6)(d) is a challenging condition apply in practice as the eligibility criteria are disconnected from economic reality and from banks' financing practices. The collateral recognition takes greater prominence since CRR3 came into force as banks can no longer take into account the value of their financed movable transport assets such as ships, facing higher costs of capital. As a result, traditional collateral-backed structures economically no longer offer advantages compared to unsecured structures which may offer higher margins. This will impact EU banks competitiveness as they are no longer able to offer loan pricing based on collateral recognition as other jurisdictions can.

This provision would therefore benefit from clarification in the level 1 text to support consistent implementation as intended. We note there is an existing EBA Q&A 669 on the topic but this does not fully resolve how this should apply. We would highlight that cases of repossession or forced sale remain exceptional in reality. Banks prioritise restructurings that are more favourable to both the bank and the client whenever possible(e.g. restructuring without enforcing collateral, encouraging refinancing of voluntary sale of collateral by the borrower). The required statistical test is therefore difficult, if not impossible, to perform unless relying on external data to compare last estimated market values to market prices. It should also be noted that several safety nets already exist in the current text, since a 40% discount must be applied to the value of the collateral and the LGD cannot be less than 25% even when financing is fully collateralised. This condition of 90% of liquidations at not less than 70% of the collateral value is not imposed by the Basel text, which simply states that "Banks must also demonstrate that the amount they receive when collateral is realised does not deviate significantly from these market prices.".

Recommendation: this strict quantitative test should be removed and replaced by the comparison between market prices and sale price when a sale has taken place without preventing institutions from recognising the collateral in case no internal observation is available. Other clarifications to improve the L1 text could be as follows:

- Not all defaults involve liquidation (which could skew the outcome) and that also other restructuring solutions should be eligible – the important factor is whether the transaction is secured
- To acknowledge and incentivise de-risking strategies of banks, the cut-off of historic data could be allowed (e.g. change of business model, focus on conservative recourse structures).

[39] Comparing capital (unexpected loss) or comparing RW is the same as they are proportional.

As highlighted in Q57, we would more generally support the Commission undertaking a broader review of the FCP framework. This should include both the scope of eligible collateral types and the valuation principles underpinning their recognition.

Low Default Portfolios

We support a review the effect of modelling rules for Low Default Portfolios. Although this is not specifically required under Level 1 legislation, in practice the EBA and the ECB tend to limit credit risk models to purely statistical models. These are commonly used for high-default portfolios but are not well suited to low-default portfolios. For such portfolios, purely statistical internal models are less discriminatory and imply overly conservative Margins of Conservatism. In extreme cases, banks may be incentivized or constrained to revert to less sophisticated approaches (F-IRB or the Standardized Approach), which are also less risk-sensitive. This may for instance result in banks no longer being able to undertake certain types financing such as specialised lending or low risk transactions which cannot otherwise get financing. We think it should be possible and made more feasible to grant banks greater flexibility in their choice and development of models without undermining model quality.

Recommendation: The Commission should therefore mandate the EBA to review the current limitations on modelling LDPs and take account of the following solutions to support both competitiveness and simplification:

- Models could be developed not only on the banks' own data but using external data more extensively, provided by recognized pooled data providers such as Global Credit Data and subject to representativeness of these data with the bank portfolio.

- Models other than purely statistical ones could be recognized, provided their quality is ensured by relying more extensively on backtesting. This would be compliant with article 174 of CRR3 which specifies that banks can use "statistical or other mathematical methods ((“models”) to assign exposures to obligor or facility grades or pools". Article 174 requests a satisfactory back-testing : "(a) the model shall have good predictive power". Such predictive power can be measured by the back-testing in particular considering distributions of potential LGDs and their realization (observed LGDs). Such observed LGDs would not be used for "calibration" of the model output but for its back-testing, i.e. good predictive power. Any kind of model would be allowed, like mathematical ones, also incorporating expert judgment. LDP models would be exempted from all the modeling rules and instead would be subject to a robust and risk sensitive back testing approach.

Reduce level of technical details in Level 1 text

For future revisions of the Level 1 text, we suggest that Level 1 should avoid prescribing detailed modelling specifications—such as reference-period selection methods and zero-flooring for CCFs, which constitutes a deviation from Basel in CRR Article 182. Similarly, the possibility to use an SA-CCF while using own LGD estimate should be granted, avoiding burdensome modelling constraints for a limited eligible portfolio (revolving facilities only). These technical elements are more appropriately addressed in Level 2 or Level 3 texts, where they can be updated more efficiently and aligned consistently with other modelling requirements.

Recommendation: We therefore propose Article 182 is removed or changed to an EBA mandate.

Complexity of Cross Referencing to Credit Risk Rules

The complexity and inconsistency of cross referencing to the credit risk rules for other areas of the framework has become challenging to navigate. Some rules refer to ratings, some to

credit quality steps and some to risk weights. This has been brought about by layered drafting of separate elements of the framework, but the overall original underlying intent was for a consistent alignment in risk weight treatments.

Recommendation: The EC could consider removing references to CQS or credit assessments outside of the standardised approach to credit risk and fully aligning to the risk weight outcome under this approach throughout CRR. We think this could be improved to simplify the compliance burden as there would be no inconsistencies to cater for either through interpretation or unaligned treatments. Nonetheless this would need to be done cautiously to avoid any unintended consequences. For instance, the reference to external rating ensures that the general principle of CRR 194 is de facto met in terms of sufficient liquidity (Investment grade bonds are deemed liquid) – erasing reference to CQS may lead bank to implement heavier processes to demonstrate eligibility which we would want to avoid.

Key examples include:

- Article 197(1)(b) to (e), (2) and (3) could be deleted and replaced with a single requirement that debt securities should be eligible collateral if they would receive a risk weight equal to or less than 100% under the standardised approach to credit risk or alternatively changed to just refer to the relevant risk weights for issuer types rather than CQS. This would avoid any issues with the reference to CQS which e.g. is not relevant for Article 114(4) and which therefore results in inconsistencies with recognition of CRM vs application of a 0% risk weight under credit risk for sovereigns with lower external ratings e.g. Italy, Spain. This would also ensure that Article 113(1) is consistently used throughout the framework as currently it only requires that the risk weight is increased and not the CQS.

- Article 224 similarly uses CQS and would therefore imply higher volatility adjustments for lower externally rated sovereigns which are otherwise eligible for 0% risk weights under Article 114(4) such as Italy and Spain.

- Article 383p/383s/384 refer to CQS1-3 but this neglects to consider that other exposures may have equal or lower risk weights driven by other elements of the standardised approach to credit risk framework e.g. Article 114(7) allows for application of a lower risk weight for equivalent third countries but does not clearly state that the risk weight would be that mapped to a CQS. Additionally, Article 384 particularly does not allow any differentiated treatment for EU member state sovereigns applicable for Article 114(4) to take the lower risk weight.

- Grade A-B assessments for Institutions map to lower risk weights but are not used elsewhere in the framework given the use of CQS despite being permitted by Basel e.g. CRE22.34(4)(b) allows at least Grade A securities to be eligible CRM. Allowing Grade A to be considered investment grade for the purposes of Article 383p/383s/384 would also promote greater consistency of risk weighting.

Complexity of Counterparty Classifications

The definitions of the exposure class categories e.g. institutions, public sector entities, etc. are complex and leverage multilayered and cross-referenced regulatory definitions.

Recommendation: We would support a general review of these to see if they could be simplified or rationalised, the aim being to result in less interpretative challenges and inconsistencies between firms e.g. where regulated financial holding companies are not classified as institutions despite being subject to the same regulation as the subsidiary institutions on a consolidated basis. Further, the parallel taxonomies for (SA/IRB) exposure classes (including the divergent treatment of insurance companies),Financial Sector Entities (Regulated/Unregulated), Shadow Banking Entities and FINREP Counterparty Sectors are independently complex, and multiple ones in parallel introduce a large compliance burden for banks and a high

risk of inconsistent application across banks. Nonetheless, we would urge caution in the process of such a review to avoid changes which may have unintended consequences on the scope of models and potentially lead to model changes which would be of themselves burdensome to implement.

Specialised lending

Specialised lending is key for European competitiveness and growth as it enables banks to finance strategic assets such as energy/electricity (including storage), telecommunications, environmental (notably water), social-infrastructures, data centers supporting infrastructure, AI development, aircraft and rail assets, key commodities (agricultural products, metals, natural resources, etc). In this regard European banks hold a specific expertise in the origination of such financing. Nonetheless, in addition to the issue of modeling rules linked to LDPs, these activities could potentially be at risk due to overly conservative non-risk sensitive approaches being introduced in CRR3.

The CRR3 introduces minimum values ("input floors") for parameters derived from internal credit risk models on a transitional basis. When these floors are calibrated at a level which is too high, they penalise the lowest-risk transactions e.g. a new Airbus aircraft, For project finance the applicable floor is the same as the one used for unsecured corporate exposures, despite the underlying security package. Data collected and analysed by GCD show that these floors are overly conservative in light of the historical loss experience on specialized lending portfolios. For project finance and aircraft finance for example, 70%-75%of observed historical LGDs are below the floor estimated for typical transactions.

Recommendations: The transitional input floors in CRR3 mitigate the impact alongside an EBA data collection exercise (which is currently in progress), which is welcome. It is important that, once this work is completed (which should be before the end of the first transitional (set to 50%) in 2027), the input floors for specialized lending should be permanently adjusted to maintain the 50%, as supported by historical data. In this respect we note the overriding purpose of the LGD input floor should be to avoid outliers in modelled LGDs, and consequently this should be set lower than average or median of LGDs otherwise it would fail the objective of just addressing outliers.

We also support a review of the applicable risk weights for the Slotting approach (Article 153(5)) to consider the granularity and the recognition of credit risk mitigation to better reflect the effective riskiness.

Securities Financing Transactions (SFTs)

SFTs are important to market participants for refinancing purposes, collateral management and access to securities. They foster market liquidity and reduce costs. SFT are low risk transactions due to their short-term nature with a 1.5-month average residual maturity (as ICMA surveys show). Besides this, a large part of the business is taking place with core market participants such as regulated funds subject to capital or leverage requirements, regulated pension funds and recognised CCPs which are low risk counterparties. While some counterparties can centrally clear some of their SFT, this is not an option for all counterparties and available for all types of SFTs. Hence, a large chunk of the market remains bilateral. However, in the standardised approach for credit risk (SA-CR), there is no recognition of the short-term nature of SFTs and at the same time, most core market participants are unrated (and it will remain so since they do not issue debts) and are therefore risk weighted at 65 or 100% as they are classified as unrated corporates for the purpose of calculating the Output Floor. Indeed, the indicative results of an AFME/GCD study to assess the riskiness of funds relative to the 65% regulatory RW applied for calculating the output floor has found the average IRB RW is approximately 22% across all the funds covered by the survey (over 40,000).

Recommendation: We therefore welcome the review and analysis being undertaken on this type of exposure by the EBA at present and recommend that the impact on core market participants is taken account of in any future revision to the CRR3, potentially through a dedicated

RW.

61. Does the prudential framework strike the right balance between risk-weighted requirements and backstops (output floor, leverage ratio) or Pillar 2 requirements?

- Yes
- No
- No opinion

Please explain

In terms of balancing Pillar 1 and backstop measures with Pillar 2 we are concerned with the overlaps between the two frameworks arising from the implementation of the Output floor as well as those arising from the implementation of Basel III in general. It is important that supervisors now assess overlaps arising from the implementation of CRR3 as a matter of urgency. As per studies we have undertaken[40], industry has identified both mechanistic and duplicative impacts of the implementation of CRR3 in Europe which has an impact on banks' competitiveness. Unlike other jurisdictions such as the UK where the PRA is undertaking an impact assessment to review banks' P1 and P2 overlaps on a bank-by-bank basis to identify the off-sets needed **before** the implementation of Basel 3.1[41], EU banks are already disadvantaged, given the fact no such impact assessment has been undertaken although CRR3 has already been implemented. Further, other jurisdictions such as the US do not have a P2 regime, just stress test buffer.

We would also note that in jurisdictions like the UK and US, the impact of Basel III will be offset by reductions in other requirements, notably Pillar 2 requirements. While EU authorities correctly identify that EU banks are sufficiently capitalized, a corollary offset in Pillar 2 of Pillar 1 increases driven by the implementation of Basel III has yet to materialize. We would urge the ECB (SSM) to take the necessary actions swiftly.

We would highlight that AFME has welcomed EBA's recent efforts to address interactions and thus potential overlaps between different layers of capital requirements in its recent review of the SREP guidelines, nonetheless we believe that the EBA should consider a more integrated, risk-by-risk assessment of overlaps between P1 and P2. More broadly, a reassessment of P2R should always be warranted where changes to the P1 framework led to a material increase in RWAs. If the revised P1 framework is designed to capture risks more comprehensively than the prior framework, maintaining the P2R at the same level without recalibration risks unintended double counting. Indeed, if the risks were not captured through P2, it would imply that under the previous supervisory approach the risks weren't being captured at all, which seems unlikely. We therefore proposed to the EBA that a risk-by-risk review is embedded within the EBA SREP Guidelines to ensure P2 remains focused on residual risks not adequately captured in P1. Alongside this industry supports a clear requirement for supervisors to be transparent on the quantitative amount of resulting from the scores of each component of P2R are assessed, given the ECB delinking the SREP scores from ICAAP. The quantitative impact could be presented within ranges rather than a specific figure for each component.

If the final GLs do not address the issue of overlaps and transparency as part of the EBA SREP consultation process, we strongly recommend the obligations for competent authorities to assess such overlaps between P1 and P2 should be strengthened within the regulatory framework at level 1.

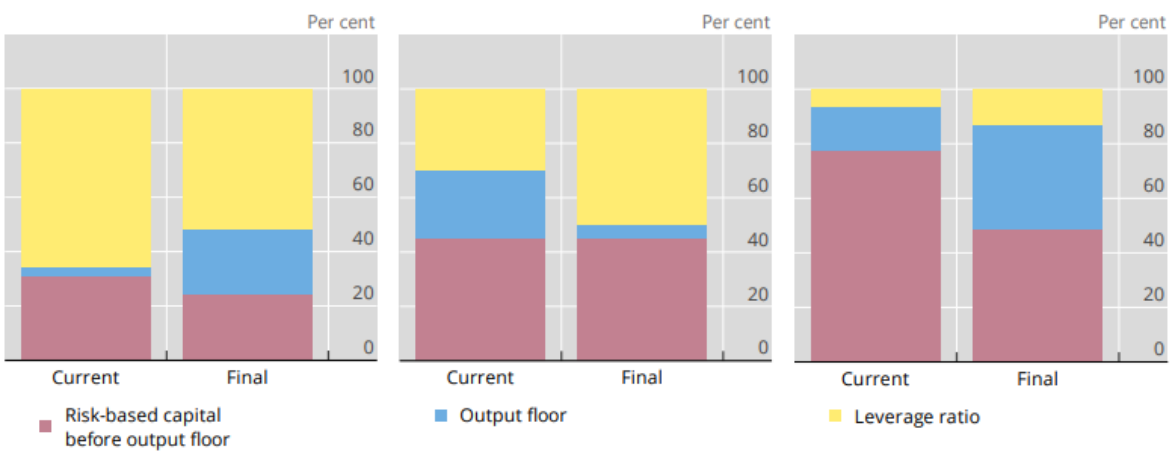
In addition, regarding intended backstop nature of the Output Floor and Leverage Ratio, we note that based on the Basel III monitoring report from 2024[42], when the reform is fully

[40] AFME and GARP studies undertaken in 2024 and 2025 are shared as non-public annexes to this consultation response.
[41] As per page 79 of FSR report 2025 – this estimates the impact analysis should lead to a reduction of 0.5% in P2A requirements.
[42] See graph 60 of the monitoring report

implemented, almost 80% of EU banks will be constrained by the output floor or the leverage ratio meaning, regulatory capital requirements will therefore become less risk-sensitive.

Percentage of banks constrained by different parts of the framework, by region

Group 1 banks Graph 60



Source: Basel Committee on Banking Supervision. See the Excel data file for underlying data and sample size.

Source: BCBS - Basel III Monitoring Report, March 2024

Accumulation of backstops adds complexity to the overall framework and makes it more difficult to understand and analyse published results. We therefore support a review of the Leverage Ratio and Output Floor as per our response to Q 59/Q62 (capital stack on LR/ other LR suggestions) and Q68, so that the risk-based requirements are the overriding constraint on EU banks.

62. Do you think that the leverage ratio framework would need improvement? If yes, do you have any suggestions as to how to improve the leverage ratio framework?

The EU Leverage Ratio (LR), introduced through CRR2 and fully applicable since June 2021, serves as a non-risk-sensitive backstop to the risk-based capital framework. While AFME supports the LR's role in safeguarding financial stability, several structural features of the current design create distortions that disproportionately affect low-risk capital markets activities and reduce the competitiveness of EU banks relative to international peers. In particular:

- Treatment of central bank reserves and certain sovereign bonds (incentivised in the liquidity ratio) becomes an undue constraint on banks' leverage.
- Regarding client-clearing exposures, despite targeted adjustments, the treatment continues to overstate exposures for banks acting as clearing intermediaries, making clearing services more costly and less accessible.
- Market-making inventories, essential for secondary market liquidity, are captured without differentiation, discouraging liquidity provision — especially in fixed income markets.

Given the EU's strategic objective to deepen its capital markets and strengthen banks' ability to intermediate financing for the economy, it is appropriate to revisit the LR's calibration at Level 1.

To maintain the LR as a robust but proportionate safeguard, the EU should introduce targeted amendments to the CRR that realign the LR framework with its original purpose: a backstop, not a binding, primary constraint. Such adjustments would reinforce the competitiveness of EU banks, support market liquidity, and enhance the functioning of EU capital markets. We

consider that a better-calibrated LR would improve incentives for client clearing and market-making, without reducing prudential safeguards. See also our recommendations on the leverage ratio with respect to the capital stack under question 59.

In particular, we recommend:

1. Exclude certain on-balance sheet assets from the leverage exposure measure.

We propose excluding central bank reserves and certain sovereign bonds held within regulatory liquidity buffers (i.e. LCR numerator) from the leverage exposure measure to eliminate the counterintuitive interaction between the leverage ratio and the liquidity ratio.

A bank seeking to improve its liquidity surpluses by attracting more resources inevitably sees its liabilities increase and thus its assets. By default, the simplest way for a bank to manage this additional liquidity is to park it at the central bank (rather than deploy it for additional lending). This enlargement of the balance sheet leads to a deterioration of its leverage ratio. Not excluding central bank reserves means that a bank looking to shore up its liquidity position can only do so at the expense of its leverage position, which doesn't seem to be creating the right incentive in liquidity management.

A similar inconsistency applies to all (not limited to just EU as LCR requires diversified portfolio of HQLA) sovereign bonds held within liquidity buffers, qualifying as HQLA 1 and assigned a 0% RW under the credit risk SA. Although such assets could theoretically be used to generate leverage, they are operationally restricted, unencumbered, and not used for balance-sheet expansion. Treating these holdings as leverage-creating overstates risk and contradicts their supervisory purpose of providing immediately available liquidity in stress periods. Excluding them would preserve banks' capacity to support financing of the EU's real economy, avoid negatively impacting banks' profitability in a negative interest rates environment, avoid disincentives to maintain adequate liquidity in normal times, reduce procyclicality, and support effective monetary-policy transmission by ensuring well-functioning sovereign-bond and repo markets.

2. Amend Article 429 of the CRR to align systemic risk reduction frameworks (i.e. central clearing and initial margin) with the Leverage Ratio.

To better reflect the low-risk profile of client-clearing exposures and exclude all clearing activities performed on behalf of clients where a bank performs an intermediary role in a transaction.

Permit a more proportionate recognition of default fund contributions across exposure categories. The default fund contribution to the LR should reflect differences in cleared products by excluding default funds related to cleared cash transactions from the LR. Cleared cash transactions are only subject to own funds requirements for settlement risk and do not incur any exposure to credit risk[43]. Accordingly, associated default fund contributions are considered risk-free and assigned a 0% risk-weight within the credit risk framework. In these circumstances, requiring the bank to include an exposure to the CCP in its total leverage exposure would generally result in an overstatement of total leverage exposure. Therefore, it is proposed to exclude default funds related to cash positions that are 0% risk weighted under credit risk framework from the total leverage exposure calculation. Such an approach would safeguard the incentive for central clearing whilst upholding systemic financial stability, in full alignment with the de minimis risk inherent in these contributions. Exclude segregated initial margins posted in a bankruptcy remote fashion to a CCP or bilaterally from the LR calculation. Initial margin requirements have been introduced to reduce systemic risk in the financial system (when posted to CCPs) or counterparty credit risk (when posted on a bilateral basis to other dealers as required by EMIR). It is not a choice from the banks to develop any additional business but rather reflects increased requirements mandated on banks to continue performing existing business already captured under the LR rules. We note the LR framework already includes the notion of excluding risk-free cleared items (429a(1)(g)). This same logic should therefore apply to both default fund cash cleared transactions and segregated initial margins posted in a bankruptcy remote fashion.

[44] CRR article 429.3

3. Address shortcomings in SA-CCR

We note that there are also issues in the leverage ratio for - derivatives in relation to SA-CCR which should be addressed:

- **Alpha factor:** The alpha factor introduced in CRR2 should not be applied to derivative exposures when calculating the leverage ratio. Currently, the fair value, or replacement cost, of derivative exposures is already reflected on the balance sheet as a mark-to-market (MtM) receivable. Under the previous CRR approach, adjustments were made to account for differences in accounting standards by recognising legally enforceable netting and variation margin. This approach aligned well with both the design principles of the leverage ratio and economic reality. However, CRR2's introduction of the SA-CCR framework, and in particular the application of a 1.4 alpha factor, has made the leverage ratio for derivative exposures unnecessarily conservative. This results in a significant and unjustified increase in the reported balance sheet receivable amount. By artificially inflating derivative exposures in this manner, the cost of hedging for end users, such as corporates, pension funds, and sovereigns, who are less likely to post margin, is higher than before. For leverage ratio purposes, the exposure from derivatives should more accurately reflect the actual on-balance sheet exposure, consistent with the treatment of loans, overdrafts, securities, and other balance sheet items. This view is in line with industry recommendations to set the alpha factor to 1 under the SA-CCR for the leverage ratio framework.
- **Variation Margin:** Significant institutional end-users such as insurance companies and asset managers can mobilise high-quality securities such as HQLA 1A government bonds much more easily than cash and therefore tend to require that their derivative exposures are collateralized by such assets instead of cash. They are thereby unduly penalised under the current rules which only allow cash variation margin to reduce the leverage exposure. Very high-quality government bonds qualifying as HQLA 1A under the LCR and NSFR framework should therefore be treated as cash for the purpose of the LR and banks should be allowed to reduce the corresponding leverage exposure (subject to meeting the relevant eligibility criteria[44]) to support those clients that post it as variation margin.

4. Apply Leverage Ratio at consolidated level

In line with AFME's overarching position on the free flow of capital and liquidity, we support the application of the LR at the consolidated level. This would reflect the way in which it was initially analysed and calibrated by the Basel committee. It would also ensure it is a truly business model-neutral measure and allow banks to diversify their risks and avoid regulatory fragmentation.

63. Do you think the Pillar 2 Requirement needs to be improved? If yes, do you have any suggestions as to how to improve the Pillar 2 Requirement?

The Pillar 2 Requirement (P2R) determination by the SSM lacks clarity, and there remains the ongoing issue of a risk-based approach is ensured and how supervisory judgement is used. Our members have reported that, following the review of the P2R methodology by the ECB, the judgmental component has assumed an increased role, while the link to ICAAP, which provided the bank-specific elements rendering the capital add-on more faithful to banks' specific risks, has been removed. We would therefore, first and foremost, recommend further transparency regarding the process used by supervisors to determine P2R. One means of increasing transparency would be providing a quantitative breakdown in terms of how much each risk driver contributes to the overall Pillar 2 capital add-on (as already done in some other jurisdictions, for example, in the UK). The quantitative impact could be presented within ranges rather than a specific figure for each component. More broadly, we support a risk-by-risk assessment of overlaps between P1 and P2 to ensure P2R remains focused on residual risks

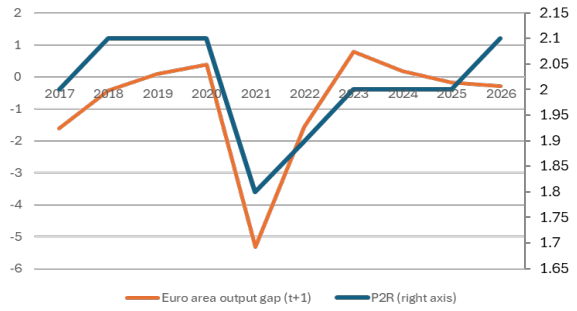
[44] CRR article 429.3

not adequately captured in P1 and a reassessment of P2R should always be warranted where changes to the P1 framework led to a material increase in RWAs.

As per our answer to Q61, we are also concerned with the overlaps between P1 and P2 frameworks arising from the implementation of the Output floor as well as those arising from the implementation of Basel III in general. It is important that supervisors now assess overlaps arising from the implementation of CRR3 as a matter of urgency.

We would also draw attention to potential overlaps of P2R and other capital requirements. Here in particular we note potential duplication with countercyclical components like the countercyclical buffer. In the figure below we show the output gap of the Euro area (left axis) and the aggregated P2R (right axis) over time. The analysis indicates that the P2R is set with a countercyclical effect, if not a countercyclical purpose, i.e., P2R is on average lower in periods of contraction and higher in periods of expansion.

Average euro area P2R (%RWAs) and euro area output gap (%)



Source: ECB and IMF. Output gap shown with a 1-year lead as the P2R level is set on the previous year for application on the following year

Against this background, we recommend a calibration of micro- and macroprudential requirements that avoids overlaps. The UK's approach to bank capitalisation serves as a strong precedent for this request. As outlined in the PRA PS 15/20, the PRA may adjust firm-specific Pillar 2A (P2R equivalent) capital requirements to offset increases in the CCyB. This approach ensures that the overall level of loss-absorbing capacity in the banking system remains broadly constant, while preventing a "double counting" of risks. The core reasoning is to shift the balance of capital requirements from fixed minimums towards buffers that can be drawn down, thereby enabling banks to absorb losses while continuing to support the real economy through lending during a downturn.

64. Do you think the Pillar 2 Guidance needs to be improved? If yes, do you have any suggestions as to how to improve the Pillar 2 Guidance?

Please also refer to answers to questions 59 (answers 1B) and 4.

There is a lack of transparency as to how P2G is determined which leads to uncertainty in bank capital planning and the extent to which P2G accounts for or overlaps with risks which are reflected in other buffers, including internal buffers.

Our recommendations for the improvement of P2G are set out below and should be read together with other proposals for simplifying the capital stack included in this response:

1. Ensure no overlap between P2G and the CCoB; the CCoB should not increase the quantum deemed appropriate for P2 but can retain the MDA trigger for Basel compliance.

2. Simplification of stress-testing methodology that underlies the P2G.

3. Taking an assumption in the supervisory stress testing framework of partial or full reversal of country-level stress buffers (Countercyclical buffers (CCyB) and Systemic Risk buffers (SyRB)) will cancel double-counting of the stress test buffer. This should be included in the 2027 EU-wide stress testing exercise currently in preparation by EBA and ECB/SSM.

4. The P2G bucket determination, and later on supervisory P2G setting, should be driven by the solvency ratio depletion minus the conservation buffer and minus the starting point CCyB and SyRB. For example, the P2G determination for an institution having an average CCyB at 70bps and an average SyRB at 10bps at starting point, with a depletion of solvency ratio of 500bps in the supervisory stress test, should be 500 - 250 (= capital conservation buffer) – 70 (=CCyB starting point level) – 10 (=SyRB starting point level), with a minimum of 0, so in this example 170bps.

5. A quarterly P2G update mechanism could ensure that, at any time, the sum of country-level and group-level buffers, complementary to the CCB, effectively matches the latest supervisory assessment of the institution capital stress testing buffer need.

6. Improve transparency around the calibration of P2G. The linkage between the EBA stress test CET1 drawdown and P2G range buckets is somewhat helpful but could be improved to provide better transparency, including whether other factors in addition to the EBA stress test results are considered.

7. Guidance as 'new' risks emerge – e.g. geo-political risk.

8. We caution against top-down stress tests as a tool to derive P2G. While the industry acknowledges the push for a top-down methodology, we caution against over-reliance on top-down constraints that risk detaching the exercise from banks' actual risk profiles and management practices. The current hybrid model should be preserved, as bottom-up elements remain essential for realism and credibility, especially for larger institutions with complex portfolios.

65. What determines the level of the management buffer? How much does the management buffer weigh in the overall capital set aside by banks? Do you think there are unwarranted pressures to set such a buffer, if yes do you have any suggestions that would help reduce undue external incentives to set management buffers?

The European Commission rightly acknowledges that there are various reasons why banks must hold capital in excess of capital requirements. Below we have provided a number of reasons why this is.

The management buffer is intended to address volatility in the capital ratio and mild deviations due to planning uncertainty can be absorbed without falling below P2G.

External drivers:

- Supervisory expectations: The degree of supervisory oversight can influence the setting of the management buffers and some banks are subject to explicit supervisory expectations from the ECB to define management buffers above regulatory and supervisory minimas well as EWIs above risk limits and targets above EWIs drive inflation in bank's management buffers. In addition, an important factor in banks willingness to use their capital buffers is the speed at which supervisors will expect those buffers to be replenished.

- Market perception: Breaching, or coming close to breaching, regulatory capital requirements is perceived by market participants as a sign of financial weakness or distress, and can trigger adverse reactions from investors, counterparties, and customers. Research by the BCBS, for example, found that market indicators such as cost of equity, 1-year expected default frequency, 5-year CDS spreads and price-to-book ratio are all related to distance to minimum capital requirements (and the MDA triggers). There is also a perception that there will be a strong negative market and regulatory reaction to any bank's capital ratios falling below P2G.

- Ratings implications: Credit ratings agencies typically incorporate headroom over regulatory minimum requirements into their credit rating methodologies for banks.

Internal drivers:

- Risk appetite: As noted in recent research published by the BIS, banks' management buffers are to some extent a reflection of management's tolerance to the risk of breaching regulatory requirements. Certain business models (such as custody banking) require banks to maintain a significantly more conservative risk appetite, holding capital far in excess of minimum requirements. This is also partially externally driven, given supervisory expectations for banks to establish a risk appetite, and to avoid setting risk indicators and triggers too close to regulatory minima.

- Strategic objectives: Management buffers provide flexibility for banks to execute their strategic objectives under both normal and stressed conditions, and banks may deploy the capital in the event of M&A activity, investment in technology, or new product launches. As a result, we would emphasise that capital held in excess of regulatory requirements is not necessarily 'unproductive.

- Cost of replacing buffers: A constraint on banks depleting their capital buffers is a concern that external stakeholders (either regulators or the market) might apply pressure on the bank to replenish used buffers at a time when it is expensive to do so, or market access is unfavourable. Any decision to voluntarily deplete a bank's capital buffers will be contingent on the value creation associated with the deployment of the capital offsetting both the additional risks incurred and the cost of addressing the resulting capital shortfall.

While it is true that concerns about buffer usability in stress are a contributing factor to the size of management buffers, and efforts to improve the usability of buffers in stress would be welcome, the factors above would remain prevalent even in the event that regulators took action to improve the usability of capital buffers. We take the view that investors will always demand headroom above regulatory requirements. For this reason, adjusting regulatory benchmarks or messaging around buffer usability would not, on their own, fundamentally alter bank behaviour in normal conditions.

We would support regulators publishing clearer guidance on the consequences of drawing down capital buffers and set out more explicitly the expected timeline for rebuilding those buffers.

66. Are, in your view, the various elements of the framework aimed at reducing NPLs working as intended? If you answer 'No', please specify the potential areas of improvement Yes

  - Yes

- No
- No opinion

Please explain and, if deemed relevant, provide suggestions to improve the framework.

The EU's prudential backstop for non-performing loans (NPLs), introduced in 2019, was designed as an exceptional measure to address historically high NPL ratios following the asset quality review carried out by the ECB when setting up the Single Supervision Mechanism framework. In its supervisory priorities, the ECB highlighted the level of NPLs in banks' balance sheet which resulted in a key risk faced by the Euro area. The first priority of the SSM consisted in tackling the NPL stock in European banks balance sheet by encouraging them to actively manage them. These initiatives aimed at strengthening EU union competitiveness, preserving financial stability and encouraging lending, so as to create jobs and growth within the Union (cf. Regulation (EU) 2019/630 (3)). This supervisory tool was implemented with the addendum of the NPL guidelines published in 2019 following a peak of banks' NPL ratio reaching a level of 7.5% in 2015[45].

Since then, the landscape has fundamentally changed: banks have significantly reduced NPL stocks, strengthened credit risk management, and implemented Basel III standards, resulting in an average NPL ratio of around 1.9% today - the lowest in decades, taking down the volume of NPLs from €1 trillion NPLs in 2014 to €350 billion in 2025. Furthermore, since its introduction in 2019 many other prudential measures have been introduced to the credit risk framework which address the underlying causes of the high NPL ratio, not least guidelines on loan origination and the definition of default, as well as CRR3 implementation including the output floor backstop and measures to support banks disposing of NPLs (so called "massive disposals").

No other major jurisdiction applies a similar P1 backstop, including the US and the UK, which recently decided to remove this measure from their framework. Its continued application imposes unnecessary rigidity and capital costs that undermine competitiveness without materially improving resilience.

Lastly, the Pillar 1 NPL backstop measures have started to reveal a complex interaction with the newly developed LGD-in-Default models which banks (per EBA requirements) need to introduce default vintages as one driver. The unintended economic consequence of the P1 NPL backstop results in banks being incentivized to stop banking relationships as soon as clients' creditworthiness deteriorates. This reinforces clients' funding / refinancing problems. Without the P1 NPL backstop, more time would be available for banks to work with these clients on restructuring solutions for those business models that are deemed viable.

Therefore, in terms of enhancing EU competitiveness, **the Commission should end the application of the permanent Pillar 1 NPL backstop (aligning the EU framework with the approach taken in the UK and the US).** If it is not removed then the Commission could, as an alternative option look into a potential review to assess whether the backstop might only apply in the specific event that a bank's NPL ratio exceeds a 7% threshold[46]. At the same time the EC should encourage the ECB to review its guidance for NPLs originated prior to 26 April 2019 with a view to removing this measure, given its limited relevance and the broader simplification agenda. This is necessary to ensure a fair level playing field with other jurisdictions and restore EU bank competitiveness.

[45] https://data.ecb.europa.eu/data/datasets/SUP/SUP.Q.B01.W0._Z.I7000._T.SII._Z._Z._Z.PCT.C

[46] See ECB publication: The dynamics of non-performing loans during banking crises: a new database, this finds that a large majority of crises (81 percent) exhibit elevated NPLs that exceed 7 percent of total loans.

67. Do you see any issues with the current rules on own funds instruments (CET1, AT1, Tier 2)?

No. Please see Q67.1) for background on AT1.

67.1 If you see issues with AT1 instruments, what measures would you recommend for improving the functioning of AT1 instruments?

	Fully agree	Somewhat agree	Neutral	Somewhat disagree	Fully disagree	No opinion
Increasing conversion trigger					X	
Imposing conversion instead of write-down					X	
Facilitate coupon cancellation by making them more automatic and common					X	
Review minimum distributable amount (MDA) triggers					X	
Other (please specify)						

Please explain.

We believe AT1 should remain an integral part of the EU's capital stack structure

Different analyses suggest the need to reduce the number of parallel stacks of capital. In particular, some policy makers discuss the need to increase loss-absorbency of additional tier 1 capital (AT1) as an eligible going-concern capital instruments or even replacing AT1 and / or Tier 2 capital altogether. We believe AT1 should remain an integral part of the going concern capital structure. On the contrary, any changes to the AT1 framework would undermine the simplification initiative and competitiveness of banks in the EU. This is because AT1 plays an important role in the capital mix for banks by a) substantially increasing and diversifying the investor base in bank capital, b) creating a means to manage the FX mix in the capital stack to reduce ratio volatility, c) for banks which require AGM approval for share issuances, AT1 provide for a flexible and quick means to increase capital, and d) increase a bank's pool of recovery options.

AT1 fulfils an essential role as loss absorbing instrument

The combination of suspending call decisions and cancellation of coupon payments makes the AT1 instruments akin to equity and ensures that they remain available for absorbing losses within the designed hierarchy.

AT1 is a cost-effective instrument

AT1 and T2 are forms of debt capital that are comparatively more cost-efficient for banks than CET1. According to the EBA[47], European banks had as of end 2025 an outstanding amount of €151bn in AT1 debt and € 263bn in T2, representing 1.5% and 2.6% of RWAs respectively. According to the ECB[48], the cost of equity (cost of CET1) for European banks has fluctuated over the last decade at around 8-12%. AFME estimates[49] indicate a cost of equity of 9.2% as

[47] EBA 2025 risk assessment report

[48] See ECB 254 Occasional paper https://www.ecb.europa.eu/pub/pdf/scpops/ecb.op254~664ed99e11.en.pdf

[49] Estimated as CAPM based on: i) risk-free rate of 3.3% based on 30Y nominal AAA euro area yield according to the ECB; ii) equity beta for EU GSIBs sourced from Eikon LSEG with a median GSIB value of 1.17; iii) equity risk premia based on country of location of each GSIB sourced from data of NYU Professor Damodaran which for 2025

of 2025, which is significantly higher than AT1 costs of c6.2% pre-tax (4.5% after tax[50], considering the tax deductibility of coupon payments) and T2 of 4% pre-tax (2.9% after-tax).

As stated in the report by the ECB High Level Task Force on Simplification (HLTF), discarding AT1 or T2 from the going-concern capital framework without lowering capital requirement levels would "[raise] questions of capital neutrality" and, on the contrary, would signify a costly increase in CET1 capital for banks should CET1 replace in full or even in part AT1 or T2 instruments. This would result in banks having to increase CET1 equity by € 414bn (the equivalent of the current AT1 and T2 amount) with banks having to bear € 23.6bn per year in extra funding costs by replacing AT1 and T2 with CET1. These costs would be likely passed through to the real economy resulting in higher permanent loan interest rates and an aggregate reduction in lending for households and corporates that we estimate at c€ 75bn[51].

68. What are your views on the following considerations regarding the EU implementation of the output floor?

	Fully agree	Somewhat agree	Neutral	Somewhat disagree	Fully disagree	No opinion
The current rules introduced by CRR3 achieve the right balance - no need to revise the output floor framework					X	
Some or all of the transitional derogations related to the output floor should be prolonged	X					
Some or all of the transitional derogations related to the output floor should be made permanent	X					
The output floor should only apply at consolidated level	X					
The calibration of the output floor (72.5%) should be increased					X	
The calibration of the output floor (72.5%) should be made more risk-sensitive		X				
The calibration of the output floor (72.5%) should be reduced		X				

stood on average at 5%.

[50] Based on iBoxx indices. After-tax assumes a 27% marginal tax rate. The rate and tax deductibility of AT1s varies by country. In the Netherlands, AT1s are treated as equity and therefore not tax deductible, while in other European countries AT1 are treated as debt instruments and therefore subject to tax deductibility.

[51] An ECB study estimates the elasticity of total credit demand to interest rates at an average of 2.1 (with loan measured as stock). We have used four different methods to estimate the size of the expected increase in loan rates, which we later apply to the 2.1 elasticity of demand and a euro area loan book of EUR 12.6tn. Method 1: extra funding costs of EUR 23bn relative to the size of the euro area loan book (EUR 12.6tn) is equivalent to 0.19%, which can be assumed would be fully pass-through to the economy in the long run (as shown by this Bank of England study). Method 2: estimate of changes to banks' weighted average cost of capital considering CET1, AT1, T2, and other bank liabilities like SNP (2.2% after-tax), SP (2.1% after tax), secured debt (1.8% after tax), and deposits (1.5% after tax). Weights of each from of liability are based on ECB SSM data for euro area banks. Replacement of AT1 and T2 results in a weighted average increase of 8bps in funding costs. Method 3: A BIS study finds that a 1pp increase in capital requirements is associated with a 15bps increase in loan rates, which we have extrapolated to the 4.4pp increase in CET1 capital from replacing AT1 and T2. Note, however, that a US FED study estimates that a 1pp increase in capital requirements is associated with a 8.8bps increase in loan rates. For Method 2, we have assumed a negligible Modigliani-Miller compensation of lower borrowing costs as T1 stays unchanged.

Other (please specify)						

Please explain.

We request the EU bring forward the review of the Output floor (OF) transitional arrangements for unrated corporates, low-risk mortgages and SA CCR with a view to embedding these permanently in a more risk-based standardised approach (SA). For unrated corporates specifically we support permanent SA RWs of 65% for investment grade corporates and 100% for non-investment grade corporates with some AFME members preferring Basel aligned approaches as detailed below[52]. Without adjustments to the SA, the full implementation of the OF will disproportionately affect financing for corporates, non-financial counterparties and households.

CRR3 introduced the central new element of the Basel III agreement – the Output Floor, which was designed as a backstop to ensure that RWAs for firms with internal model permissions do not fall below 72.5% of the RWAs calculated under the Standardised approaches (SA). The percentage is to be phased in fully by 2030. Alongside this EU legislators introduced transitional arrangements to mitigate cliff-edge impacts and allow banks to maintain lending capacity to corporates and households as follows:

1. **Unrated corporates:** Until 2032 institutions with permission to use internal models can apply a transitional risk-weight of 65% to exposures to unrated corporates (instead of the SA 100% RW), provided that the "probability of default" (PD) for the obligor is not higher than 0.5%.

2. **Low-risk mortgages:** Until 2032, when calculating the output floor for low-risk exposures secured by mortgages on residential property Member States may allow institutions to apply a preferential risk weight of 10% to the secured part of the exposure up to 55% of the property value, and a risk weight of 45% to the remaining part of the exposure up to 80% of the property value, provided certain conditions are met.

3. **SA CCR:** Until December 2029 institutions may replace the alpha by 1 in the application of the SA CCR for the purpose of the output floor.

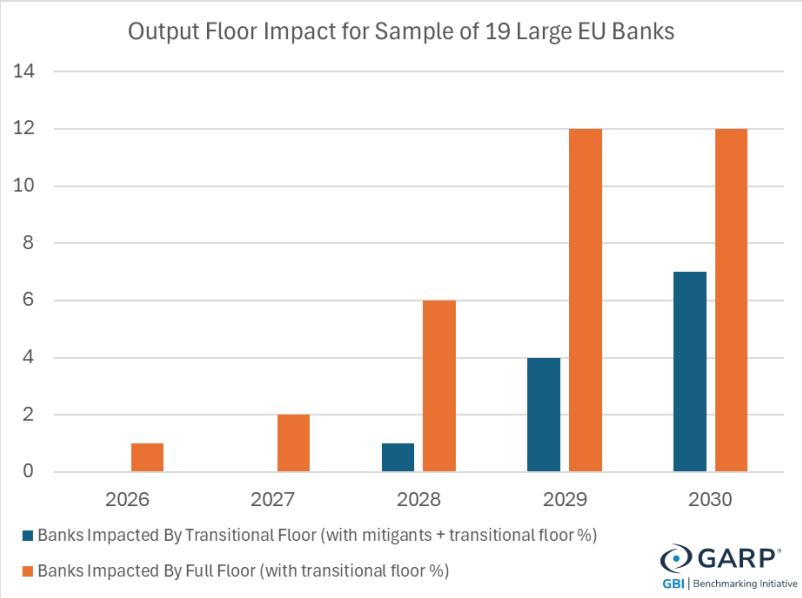
The prudential framework including the transitionals will be reviewed from 2028, however, due to the requirement for firms to report Basel III implementation on a fully loaded basis (i.e. without the transitionals in place) this is already impacting banks long term financing decisions and capital planning.
While the Basel III international standards suggest applying the output floor only at the highest level of consolidation of a banking group, in the EU the output floor applies at all levels of consolidation (consolidated level and individual level of each subsidiary). To avoid a disruptive impact on lending and to ensure its impact on own funds the application of the output floor is phased in over a sufficiently long period of time.

For a sample of 19 large EU banks in Q4 2025, examining the potential impact of the output floor over through 2030 shows:

- With transitional mitigants and transitional floor percentages (50% in 2025 growing to 72.5% in 2030), 7 of the 19 banks will be bound by the output floor by 2030

[52] The minority AFME members note the fact that in other jurisdictions, for instance the US system, does not permit the use of external ratings for risk weight purposes, effectively flooring all corporates at 65%, whereas the EU allows for lower risk weights for rated corporates. These members support permanently aligning the prudential treatment for unrated corporates with the risk-based approach as set out in international standards when the current transitionals come to an end in 2032 (e.g. a flat 100% RW or, as the UK has done, introducing an approach using 65% for investment grade corporates and 135% for non-investment grade corporates, subject to PRA permission).

- Without transitional mitigants but with transitional floor percentages, 12 of 19 banks will be bound by the output floor by 2030



Without transitional mitigants, credit risk, counterparty credit Risk, securitisation and Market Risk all contribute to the impact of the Output Floor. Considering the ratio of current RWA to Full Floor RWA by risk type, there are 10 banks where the potential[53] driver of the Output Floor is linked to Credit Risk, 14 banks where this is linked to CCR, 11 where this is linked to Securitisation and 7 where this is linked to Market Risk.

The chart below shows how the contribution to output floor impact varies from 2026 to 2030 by risk category across the full sample of 19 banks. For each risk type, this compares the current RWA to the specified percent of the Full SA RWA – a negative value implies that the current RWA is above the specified percent of the Full SA RWA and therefore is headroom for the overall output floor.

The output floor becomes binding when the total of the positive-value bars is more than the total of the negative-value bars; for the Aggregate Bank, this happens in 2029 and 2030. Note that, for the Aggregate Bank, the seven banks not impacted by the output floor by 2030 soften the overall impact seen by the twelve banks that are impacted by the output floor by 2030, but the trends shown in this chart would be similar at the individual bank level. That is:

- Given its relative size, Credit Risk moves from being a significant source of output floor headroom to the second largest contributor to output floor impact (38% of the impact in 2030).

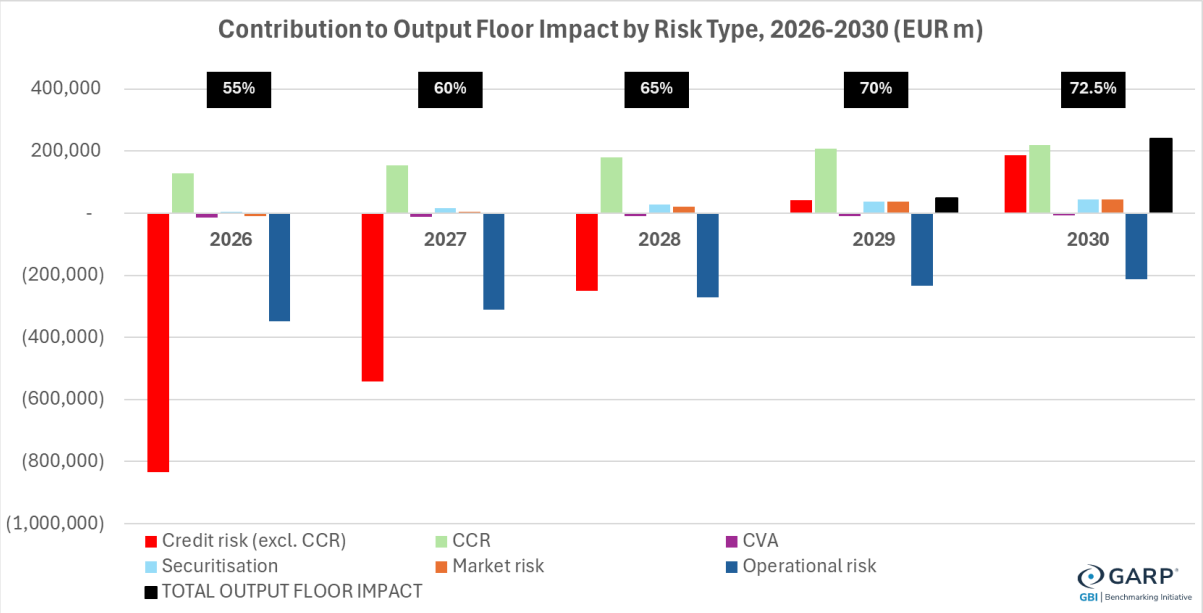
- CCR and Securitisation contribute to output floor impact throughout the horizon. CCR grows to be 44% of the impact in 2030.

- Market Risk varies by bank but in some cases grows to be a significant contributor to output floor impact (>15% of the impact in 2030 for some banks).

- Since there are not modelled approaches for CVA and Operational Risk, these risk types are sources of output floor headroom throughout the horizon. Note that this fea-

[53] Since the output floor is only binding at the total amount, a bank could have a ratio below 72.5% for a risk type but not be impacted by the output floor.

ture of the output floor calculation has the odd consequence that as a bank's Operational Risk RWA increases, the amount of output floor headroom it provides also increases.



Consequently, in terms of enhancing competitiveness and growth and avoiding a reduction in lending to households and corporates, AFME proposes the EU should bring forward the assessment of these transitional arrangements and make them permanent features of a more risk sensitive SA – with adaptations – as soon as possible, given that the issue with unrated corporates affects all banks. This would then mean all institutions (both SA and IRB) should be able to apply such regulatory treatment.

Specifically, we propose the following:

1. **Unrated Corporates (UCs): The flat 100% RW for a very varied range of entities is too blunt and a more risk-sensitive approach should reflect the type of corporate exposure (investment grade (IG) vs non-investment grade (non-IG)). AFME therefore considers the EU should make a permanent adjustment in the SA under which – with permission – all banks can classify UCs as IG or non-IG and assign them a 65%/100% RW accordingly, with some AFME members preferring Basel aligned approaches[54].**

   Justification: One of the main concerns raised during the CRR3 process, was the lack of ratings for corporates (it's estimated around 75%[55] of corporates in the EU are unrated), meaning that the requirement to apply a 100% RW to unrated corporates in the SA could result in financing becoming more expensive for the EU corporate sector. Moreover, the issue of lack of ratings is not only limited to banks which use models, but also extends to banks that apply the SA, especially with regard to investment grade corporates, which all banks are able to identify. Consequently, we propose

[54] The minority AFME members note the fact that in other jurisdictions, for instance the US system, does not permit the use of external ratings for risk weight purposes, effectively flooring all corporates at 65%, whereas the EU allows for lower risk weights for rated corporates. These members support permanently aligning the prudential treatment for unrated corporates with the risk-based approach as set out in international standards when the current transitionals come to an end in 2032 (e.g. a flat 100% RW or, as the UK has done, introducing an approach using 65% for investment grade corporates and 135% for non-investment grade corporates, subject to PRA permission).

[55] EBA Basel III credit risk advice Table 8: Exposure class corporates (excluding SMEs): exposure amounts by rated/unrated

commensurate treatment of unrated corporates should be extended to banks using the SA, where it can be demonstrated that the corporate is investment grade. For instance, this could be achieved by adapting the SA to permit institutions to make use of the internally estimated PDs for those exposures for the purposes of either the economic capital calculation or the accounting expected credit loss calculation.
Doing so would ensure that prudential requirements remain proportionate and more aligned with actual risk profiles as well as ensuring a level playing field between institutions. Further, the current application of the 65% RW by IRB institutions has not demonstrated itself to be an underestimation of the risk.

2. **Low-risk mortgages: we recommend making permanent the transitional measures introduced in CRR3 to account for the low risk of residential real estate exposures for the calculation of the output floor. Furthermore, the European Commission should reassess the opportunity to extend the benefits of these measures to the standardised approach calculation. This could be achieved potentially via the creation of a specific subset of low-risk mortgages in the SA that meet the criteria in CRR3 i.e. this preferential treatment would be subject to the same conditions as those introduced in Article 465 paragraph 8 for the output floor.**

Justification: Housing finance has become a structural challenge across the EU, with residential property prices rising steadily since 2010 and consistently outpacing consumer inflation. This trend reflects a persistent shortage of housing rather than speculative market excess. While tight supervisory monitoring of potential imbalances is appropriate, increasing risk weights would further raise mortgage costs and aggravate affordability pressures. As the ECB and national authorities already possess targeted macroprudential tools to address emerging risks more precisely, making the CRR3 transitional measures permanent is the most proportionate and effective solution.

Because mortgages have long maturities, banks must increasingly price new loans based on the fully loaded post-transition framework rather than on temporary measures. As the transitional period progresses, the relevance of the transitional treatment steadily diminishes for pricing, which risks creating pressure on mortgage markets. Early regulatory clarity on the permanent treatment of low-risk mortgages is therefore essential to ensure stable and predictable financing conditions for households.

Finally, ensuring that lower risk weights for these low-risk exposures are applied through an EU-wide discretion is essential to avoid fragmentation of the Single Market and preserve the integrity of the Banking Union. A national discretion would undermine harmonisation of micro-prudential standards—particularly as Article 124 already gives Member States the ability to increase risk weights where warranted.

3. **SA CCR: While we supported the EC's transitional arrangement to mitigate the impact of SA-CCR on the OF RWAs by resetting the alpha factor to 1, this measure addresses the bad calibration of SA-CCR only partially, i.e. only for the purposes of the calculation of the OF. It does not address calibration issues when SA-CCR is applied under the Standardised Approach (SA), the Leverage ratio or the Large Exposures framework. We therefore consider the alpha factor should be set to 1 for all SA-CCR applications and at a minimum the Commission needs to ensure a level playing field with the UK and the US approach, where the alpha factor has been recalibrated to 1 on a permanent basis in relation to exposures to commercial end-users.**

Justification: SA-CCR was introduced as part of CRR 2 in June 2021, which has led to disproportionate increases in capital requirements for banks under the SA and

significantly increased hedging costs for end-users, mainly due to the alpha factor applied in the SA-CCR formula. The importance of SA-CCR is not only in calculating capital requirements for CCR risk-weighted assets (RWAs). As of June 2021, SA-CCR is used in many areas across the prudential framework, such as for calculating capital requirements for CVA RWA (BA-CVA), for Large Exposures framework and for the Leverage Ratio. It affects all banks and users of derivatives, and the impact is not restricted to those that apply standardized methodologies only. This impact will become even more pronounced if the transitional arrangement to mitigate the contribution of SA-CCR towards the calculation of the Output floor is not mitigated.

In addition to our views on the future of the Output Floor transitional arrangements, we support application of the floor at the group consolidated level. We would note this reflects the way in which it was analysed and calibrated by the Basel committee and received the support of the SSM in the CRR3 negotitiations, as noted by their then Chairperson, Andrea Enria: “This [consolidated application] would be simpler because each banking group would only have to calculate the output floor once. It would also be in line with our goal of supporting a truly European banking market.” Applying it at the group consolidated level would ensure it is a truly business model-neutral measure and allow banks to diversify their risks and avoid regulatory fragmentation.

Macroprudential framework

69. In your view, which of the areas below create inefficiencies and undue complexity in the macroprudential framework?

	Fully agree	Somewhat agree	Neutral	Somewhat disagree	Fully disagree	No opinion
The current number and scope of macroprudential buffers, some of which may potentially tackle similar risks	X					
The calibration of macroprudential buffers	X					
The calibration of other macroprudential tools		X				
The heterogeneous application of some tools like Other Systemically Important (O-SII) buffers across the EU	X					
The current reciprocity arrangements	X					
The decentralised macroprudential governance framework and prominent role of national macroprudential authorities in setting measures.		X				

Other						

Please explain.

The current going concern framework layers on top of Pillar 1 six partially duplicative buffers addressing macro-procyclicality, systemic risk, stress, and idiosyncratic risks. This fragmented structure adds opacity and constraint without proportionate prudential benefit.

There is a case for the role of national macroprudential authorities to counter the potential effects of one-sized fits all monetary policy. It is important, however, that this does not give rise to unpredictability, poor economic justifications or the excessive use of national discretions.

A further source of inefficiency arises from the way buffers are calibrated and applied. In several jurisdictions, buffers intended to be cyclical have taken on a quasi-structural character, including the use of “positive neutral” CCyB rates. This practice increases capital requirements across the cycle and reduces the ability of banks to adjust to changing economic conditions, contrary to the original purpose of countercyclical tools. In addition, the absence of a clear, predefined mechanism for buffer release and reinstatement creates uncertainty: institutions cannot reliably assume that buffers will be reduced in a downturn and therefore tend to treat them as permanent requirements. This undermines buffer usability and may lead to procyclical behaviour, such as unnecessary deleveraging in a stress scenario.

Complexity is also amplified by the decentralised governance model. Macroprudential responsibilities are distributed across multiple national and European authorities, without a fully coordinated framework for assessing overlaps between micro- and macro-prudential measures. As a result, capital requirements reflect the accumulation of decisions made at different levels with limited alignment, making it difficult to ensure that risk is captured once and consistently. The lack of a unified EU level approach to methodologies, calibration, and communication leads to uncertainty about future buffer levels and complicates capital planning. We also believe that the EU ought to move away from the continuous increase in requirements it has privileged in recent years.

70. How can the macroprudential buffer framework be streamlined, while at the same time preserving resilience and the ability of responsible authorities to address systemic risks? Which buffers could be merged and what should be their role?

We believe that the regulatory minimum requirements, the first layer, reflecting pillar 1 capital remains unchanged. The macro-prudential component, the second layer, is streamlined by removing the systemic risk buffer. The CCyB and the G-SIB/O-SII buffer would remain. A third micro-prudential component would complete the capital stack.

We propose to calibrate the remaining macro component based on the countercyclical buffer (CCyB) and G-SII/O-SII requirements. We suggest setting the CCyB to 0% across the EU at this point in time based on the through-the-cycle capital requirements that do have countercyclical characteristics and buffer economic cycles. One could argue that with a buffer rate of 0% there is no way of acting countercyclically in a future downturn, however the P2 buffer component accounts for that with help of countercyclically calibrated stress test scenarios and appropriate calibration of the buffer’s floor. If there was the desire to have a positive CCyB rate, this would in effect act as a static capital component not dissimilar to the CCoB. Therefore, a positive CCyB should be reflected in lower through-the-cycle requirements where the supervisor is given the option to offset a nationally activated CCyB through the P2 Buffer. The UK's approach to bank capitalisation serves as a strong precedent for this proposal. As outlined in the PRA PS 15/20, the PRA may adjust firm-specific Pillar 2A (P2R equivalent) capital requirements to offset increases in the CCyB. This approach ensures that the overall level of

loss-absorbing capacity in the banking system remains broadly constant, preventing a "double counting" of risks. The core reasoning is to shift the balance of capital requirements from fixed minimums to buffers that can be drawn down, thereby enabling banks to absorb losses while continuing to support the real economy through lending during a downturn. There may also be a rationale for revisiting the methodology for the calculation of the G-SIB buffer in light of recent changes to the approach in the US.

71. **What are your views regarding the need for a buffer for tackling sectoral risks? Is there a need to maintain a sectoral buffer specifically for real-estate exposures to ensure a more targeted application?**

- Yes
- No
- No opinion

Please explain.

The SyRB provides an example of unnecessary layering, unwarranted national discretions, complex reciprocation mechanisms and unpredictability. The SyRB is a unique feature of the EU capital framework and has no equivalent either in the BCBS standards or in other major jurisdictions. The SyRB was meant to address systemic risks not already covered by macro-prudential requirements in the CRR, other macro-buffers (CCoB, CCyB) and the G-SII/O-SII buffers. In practice such systemic risks have not been identified on a consistent, economically sound basis. It is a complex and untransparent tool both in scope and level of application and suffers from a lack of usability.

Real-estate exposures, in particular residential mortgages, are a core component of bank lending and play a central role in supporting households and economic activity. The current prudential framework already embeds multiple safeguards, including conservative risk-weight floors, backstops, supervisory stress tests, and, where needed, national borrower-based measures. These tools are generally more precise, better targeted and more predictable than capital-based sectoral buffers, which tend to operate as blunt instruments and can easily become permanent add-ons even when the underlying vulnerabilities are not cyclical or not present across all jurisdictions. Applying a sectoral buffer on top of these existing mechanisms would therefore risk generating unnecessary capital inflation, further constraining credit for households and real-economy investment.

72. **What are your views on the identification of O-SIIs and the calibration of the buffer for systemically important banks?**

	Fully agree	Somewhat agree	Neutral	Somewhat disagree	Fully disagree	No opinion
The methodology for the identification of O-SIIs should be revised to ensure an enhanced cross-country consistency while considering national specificities.	X					
The O-SII buffer should be calibrated following a more harmonised methodology which ensures a better correlation of systemic importance with a defined range for the level of the buffer rate.	X					

Maintain the current state of play regarding the O-SII buffer calibration while enhancing transparency and accountability (including through public disclosure) regarding the calibration methodology and its application.					X	
Other (please specify)						

Please explain.

We propose abolishing O-SII requirements for G-SIB as unnecessary layering. For G-SIIs under the Banking Union, calibrating a separate O-SII buffer is duplicative of the G-SII buffer determined by the Financial Stability Board (FSB) standard. To an extent, it challenges the calibration determined by the FSB and can result in a buffer inconsistent with and higher than that prescribed by the FSB. We also suggest setting the O-SII buffer in reference to the EU Banking Union and not on the national economy. However, in order to acknowledge the fact that the systemic impact of the failure of an O-SII which is not identified as a G-SII is by construction lower than the systemic impact of the failure of a bank that has been identified as G-SII, the O-SII buffer rate should be capped at 0.75%, i.e. below the lowest level of the G-SII buffer as per FSB rules to ensure effective discrimination between G-SII and O-SII buffers. This would also be a way to address the issue of the vast and undue heterogeneity of the O-SII bucketing methodology across Member States

73. Is the current share of releasable buffers5 (countercyclical buffer and the systemic risk buffer) in the total combined buffer requirement adequate, so as to ensure that sufficient resources can be released in a downturn to support lending to the economy?

- Yes
- No
- No opinion

Please explain.

In the EU as a whole, because of the strength of the EU's capital requirements, the assessment of overall vulnerabilities remains moderate. This raises the question of whether the through-the-cycle capital levels in the EU have been set so high, that the CCyB is effectively already "on": we already have capital at a level that compensates for these increases in vulnerability, but we did not reach that capital level through activation of the CCyB.

In contradiction to the concept of countercyclical buffers, some member states have set standing, so called positive neutral CCyB rates without a macro-economic justification. The effect is a structural increase in the level of capital requirements through the cycle, as no compensation on other capital components is done in exchange. The argument of enhanced releasability as put forward by the proponents of the positive neutral CCyB is questionable given the general reluctance of policy makers to release capital once it is in the system. We would encourage policy makers to abandon the concept of "positive neutral" CCyB rates.

We believe a more effective approach would involve (i) relying on a single genuinely cyclical buffer with harmonised rules for build-up and release, (ii) removing the SyRB as a structural, non-releasable layer, and (iii) ensuring better coordination with microprudential requirements to avoid the erosion of releasable capacity in stress periods. This would materially improve the buffer framework's ability to support lending during downturns while maintaining resilience.

74. How could the risk-weight toolkit under Article 458 CRR be fine-tuned? Would its role change in the context of a streamlined buffer framework?

As explained above, the macro-prudential component in our proposal is streamlined with the CCyB and the G-SIB/O-SII buffer remaining.

Crisis Management and Deposit Insurance (CMDI)

75. Are there areas that create undue complexity in the crisis management framework and if yes, how could this undue complexity be reduced without undermining financial stability?

After more than 10 years of the Single Resolution Mechanism (SRM), it is time that the European Commission conduct a review to identify simplifications that could be made to Directive 2014/59/EU, the 'Bank Recovery and Resolution Directive' (BRRD), and to Regulation (EU) No 806/2014, the 'Single Resolution Mechanism Regulation' (SRMR). This should be supported by a robust cost-benefit analysis and include consideration of the role played by the expectations of resolution authorities and the interplay between those and Level 1 requirements.

While the crisis-management framework has significantly strengthened the EU's ability to handle bank failures, it has also become overly complex because of the many layers of rules, tools and authorities involved. This can make the system difficult to navigate, especially at moments when rapid and coordinated action is essential.

The recent CMDI framework review missed the opportunity to introduce simplifications and measures to support the Banking Union (for example, the simplification of MREL by aligning it with TLAC, and the portability of funds between DGSs, as referenced separately). We consider that legislative changes focused on simplification will support the SRB in adopting a balanced and pragmatic approach and setting expectations that do not extend beyond what is necessary for the SRB to meet its objectives.

In addition to amending the MREL calibration mechanism as set out in our response to Questions 59 and 77, to support competitiveness and delivery of the simplification agenda, we recommend a review of the SRM. This should be focused on identifying options for simplification to the requirements in the BRRD and SRMR and include consideration of the interplay between the SRB's expectations and Level 1 requirements.

Options for reform should support the SRB in adopting a balanced and pragmatic approach to meeting its objectives. Examples of changes we recommend include reviewing the frequency of resolution planning. Article 10(6) of the BRRD requires resolution plans to be reviewed and, where appropriate, updated annually and after any material changes. Now that the resolution framework is fully established, it would be appropriate to reduce the frequency. Material changes would still require updates to be made. We note that the SRB has recommended similar legislative changes in this respect.[56]

A change in Level 1 text should be supported by Level 2 changes. For example, Article 6 of Implementing Technical Standards (2025/2303), implementing the BRRD, establishes an annual frequency for certain reports that remain stable over time, such as those relating to critical functions, critical services, and financial market infrastructure. This should be reviewed to reduce the frequency, unless there are structural or material changes in the bank's organisation.

Other Level 1 changes we would recommend include reviewing the scope of Articles 11, 55 and 71a of the BRRD, including ensuring that the accompanying Level 2 requirements and guidance from resolution authorities remain proportionate. Currently, data requests from the SRB (under Article 11) are not required to be limited to what is necessary, considering the resolution strategy of the institution. Some items listed in Sections B and C of the Annex to

[56] https://www.srb.europa.eu/system/files/media/document/The%20SRB%27s%20approach%20to%20simplification.pdf

the BRRD are too generic to determine whether they are relevant to a given resolution strategy and whether they could create impediments to resolvability, resulting in requests for unnecessary analysis. Requests from resolution authorities are also often redundant due to relevant information already being provided to supervisors and resolution authorities. As a specific example, we note that valuation requirements have led to disproportionate expectations from resolution authorities for banks to produce data ex ante and to maintain access to a broad volume of data which is unlikely to be useful for real time valuation in the event of resolution, considering that, as mentioned in Article 36(9) of the BRRD, the valuation shall include a buffer for additional losses. In addition, the requirements on record-keeping and the breadth of contracts in scope of Articles 55 and 77 are unduly onerous.

A review should also give consideration to other Level 1 changes to ensure the expectations of resolution authorities remain proportionate. This could include:

- Requiring the SRB to accompany consultations on guidance and expectations with a cost-benefit analysis, and to review guidance and expectations periodically to assess their continued relevance, effectiveness and proportionality from a cost-benefit perspective.

- Requiring the SRB to clarify the types of institution for which its guidance and expectations apply.

- Targeted changes to the requirements applicable to banks according to their resolution strategy and recognising global resolution strategies and global frameworks. This would support global cooperation and remove unnecessary local requirements for institutions.

- Requiring clear justification for the need for a VRS to ensure a VRS is not a default requirement.

More generally, the involvement of many national and EU-level actors, for example NCAs, the SRB, the ECB etc., increases operational friction, especially in cross-border cases. Strengthening cooperation and standardising information-sharing practices would improve the efficiency of the system without reducing its resilience. In particular, we recommend further harmonising data requirements by improving the alignment between the resolution framework and supervisory reporting, thereby reducing duplication, inconsistencies and operational burden while ensuring timely and accurate information flows in stress situations.
We also recommend strengthening cross-border cooperation by expanding joint testing, information-sharing mechanisms and coordinated drills at international level, which would help ensure that cross-jurisdictional crisis management operates efficiently and predictably.

Finally, we note that a structural source of complexity is the absence of harmonised insolvency law across Member States. This becomes especially problematic when determining No Creditor Worse Off (NCWO) outcomes, which require comparing resolution outcomes to counterfactual national insolvency processes.

76. Are the current rules related to the determination of MREL targets effective, efficient, clear and predictable?

AFME members consider that current rules on MREL add significant complexity to bank capital requirements and go beyond internationally agreed standards. AFME members propose an overhaul of the current rules, as set out in our response to Question 77.

The current rules for determining MREL targets do not fully achieve effectiveness, efficiency, clarity or predictability. Over time, the framework has become layered and complex, and the interaction among its different components makes outcomes difficult to anticipate. As a result, requirements can shift in ways that are hard to understand for both institutions and market

participants.

A clear example is the link between the capital a bank must hold in normal times and the amount required for resolution. When day-to-day capital requirements rise, MREL can automatically rise as well (even with some time lag), because part of the resolution requirement simply mirrors these operating requirements (the mirror effect means that raising one layer often raises the other). This can leave a bank with a significantly higher MREL target even though nothing has changed in its risk profile or in the credibility of its resolution plan. It makes the framework harder to read and can lead to sudden shifts that are challenging to plan for.

This automatic link also reduces transparency. It becomes unclear whether a higher MREL target reflects a genuine concern or is merely the mechanical outcome of the rules. Faced with such uncertainty, banks frequently behave cautiously and hold more capital than necessary (the fear that a small supervisory adjustment could trigger a higher MREL encourages conservative behaviour). This increases cost and complexity without contributing meaningfully to resilience.

Part of the difficulty stems from the fact that MREL is currently calibrated using several different metrics - risk-weighted assets, leverage measures and total liabilities - which can move differently over time. This means that the binding constraint can unexpectedly shift from one measure to another (each metric responds to different balance-sheet dynamics), undermining predictability and adding to operational complexity.

Proportionality also remains a concern. In some cases, MREL levels appear disconnected from the actual resolution strategy of the institution, leading to requirements that may be heavier than necessary. This reduces the ability of banks to support the economy and does not necessarily improve resolvability.

77. How can the determination of MREL targets be rendered less complex, while preserving the resilience of the system?

	Fully agree	Somewhat agree	Neutral	Somewhat disagree	Fully disagree	No opinion
Better align MREL to TLAC, by making the calibration more automatic, predictable and transparent, and subject to less discretions by resolution authorities	X					
Better align MREL to TLAC by allowing MREL to be complied with more subordinated instruments						X
Make the MREL framework for medium-sized and smaller banks more proportionate					X	
Introduce a minimum debt requirement where MREL should be complied with non-CET1 instruments					X	
Other (please specify)	X (see below)					

Please explain.

AFME recommends replacing MREL targets with TLAC for the risk-based perspective and TLOF for the assets-based perspective, meaning TLAC and TLOF would be the only resolution stacks applicable to all non-liquidation banks operating in the EU subject to possible flexibility regarding the subordination requirements. Similar to the political agreements on BRRD and SRMR[57], we recommend introducing a floor for smaller banks under TLAC.

For risk-based requirements, our proposal to only use TLAC and to extend its use to all EU resolution entities would mean one simpler, internationally agreed concept rather than two partially very complex ones. Focus on TLAC would address the current calibration mechanic whereby any increase in the going-concern stack automatically ends up almost doubled in the gone-concern one via the automatic calibration of Recapitalisation Amount Adjustments (RCA). As it stands, post-resolution considerations are not reflected automatically in RCA calibration leading to banks holding significantly higher contingent capital than actually required in practice.

We also recommend better alignment for non-resolution entities. For subsidiaries of third country groups, we urge the EU authorities to align more closely with the FSB's standard regarding the 75-90% scaling range for internal loss-absorbing capacity. For Banking Union subsidiaries of Banking Union resolution entities, waivers should be made available to remove the requirement for internal MREL.

Lastly, our proposal removes conceptual misalignment in MREL, i.e. the market confidence charge: market confidence cannot be rebuilt via a buffer. We note that, if the proposal was to be adopted, more work is required for instance on topics like eligible instruments to cover TLAC (i.e. determination of Senior debt allowance) and multiple / single point of entry resolution models (e.g. deductions). Even if our full proposal is not taken forward, we would strongly advocate for the removal of the Market Confidence Charge.

From a non-risk-based (asset-based) perspective, TLOF would remain a mainly subordinated (subject to allowance foreseen in Art. 72b (3) CRR) requirement for all firms currently under MREL requirements. This proposal would significantly increase transparency and predictability for firms and all their stakeholders.

78. Do you consider that the prior permission regimes for the redemption and replacement of MREL resources should be simplified?

- Yes
- No
- No opinion

Please explain.

The current prior permission regime for redeeming or replacing MREL eligible instruments is more complex than necessary and often burdens both institutions and authorities without adding clear benefits for resilience. The rules were originally inspired by the framework for own funds instruments, but they now apply in a much broader and more operationally demanding context. As a result, the system can feel rigid and administratively heavy, especially when institutions need to manage their liability structure in a timely and efficient way (the approval requirement can slow down even routine refinancing actions).

A key issue is that the process does not sufficiently distinguish between actions that genuinely affect a bank's resolvability and those that are simply part of normal liability management. In many cases, redemptions are fully matched by new issuances or take place within a well-defined funding plan. Under such circumstances, requiring prior authorisation adds delay without improving the bank's loss-absorbing capacity (routine refinancing does not change the amount of resources available in resolution). Simplifying the process would reduce unnecessary administrative steps while preserving the intended safeguards.

[57] Art. 45 BRRD and Art. 12d SRMR.

Moreover, the current regime can make the framework less predictable. Because permissions depend on individual assessments and may vary across authorities, institutions face uncertainty about the timing and conditions for approval (uncertainty can discourage proactive liability management). A more streamlined, harmonised, and transparent process would support smoother market functioning and more efficient management of MREL stacks.

Simplification would not undermine resilience. As provided in the FSB TLAC term sheet and in the UK new CRR rules, approvals should only be required if the repurchase of the instrument would lead to a breach of the TLAC/MREL ratio.

We welcome recent engagement from the SRB to progress work to shorten the time to approve prior permissions of MREL instruments under Art. 78a CRR. We recommend that the maximum authorization times should be reduced by far below 3 months, considering e.g. the fast-track process introduced by ECB which requires only 2 weeks for authorization.

79. What is your view on the rules allowing to use resolution funds to support a resolution action, in particular the minimum bail-in of 8% of the total liabilities of own funds of the distressed bank? Are they proportionate and give sufficient flexibility to handle bank failures adequately? Do they create level playing field issues vis-à-vis other jurisdictions?

In our view, the current rules, in particular the minimum 8% bail-in of total liabilities and own funds before accessing resolution funds, are appropriate and proportionate.

This threshold is essential to limit moral hazard by ensuring that shareholders and creditors absorb losses before any external financing is used. It reinforces market discipline and protects taxpayers. At the same time, it provides legal certainty and predictability, which strengthens financial stability and market confidence.

Maintaining a firm and non-discretionary 8% minimum is key to preserving the credibility of the framework: additional flexibility could weaken risk discipline and create expectations of public support. Clear and uniformly applied rules are preferable to case-by-case discretion.

Consistent application of the same conditions to all institutions is essential to ensure fairness and avoid competitive distortions.

Interactions across parts of the framework

80. In your view, which of the areas below create inefficiencies and undue complexity in the interactions across the prudential, macroprudential and crisis management parts of the framework?

	Fully agree	Somewhat agree	Neutral	Somewhat disagree	Fully disagree	No opinion
Overlapping requirements addressing the same or similar risks (P2R/P2G/certain macroprudential buffers);	X					
Limited buffer usability resulting from double counting CET1 both in macroprudential buffers and in other minimum requirements (leverage ratio, MREL)	X					
Multiplicity of MDA restrictions with varying triggers stemming from prudential and resolution frameworks	X					

Cross-framework governance and coordination issues and data sharing.	X					
Other (please specify)						

Please explain.

As mentioned in our response to previous questions, the current going concern framework layers on top of Pillar 1 six partially duplicative buffers addressing macro-procyclicality, systemic risk, stress, and idiosyncratic risks. This fragmented structure adds opacity and constraint without proportionate prudential benefit.

There is merit in a review of MDA thresholds due to overlaps with measures such as MREL, the new output floor, and Pillar 1 and 2 capital requirements, and because the actions taken in the Covid pandemic undermined the concept and usefulness of MDA.

81. How could the governance in the macroprudential framework be improved to achieve a more consistent application of macroprudential tools across the EU?

To support engagement between competent (micro and macro) and resolution authorities to reduce duplication and streamline initiatives, we propose establishing an EU banking sector regulatory initiatives forum between the relevant authorities to help authorities to consider the operational impact of their initiatives on firms. A similar, wider initiative, the Financial Services Regulatory Initiatives Forum, was established in the UK in 2020.

82. What ways could be envisaged to reduce undue complexity in the interactions across the three parts of the framework, including in relation to the capital stack and governance arrangements between the authorities in charge of the prudential, macroprudential and crisis management rules, without undermining financial stability?

AFME's position on the capital stack consolidates these requirements into three clearly defined components. In addition to Pillar 1, systemic risks would continue to be covered by the G-SII/O-SII buffer, where G-SII would only be subject to the G-SII buffer and not both. Pillar 2R and Pillar 2G would remain in place for idiosyncratic risks, floored at the level of CCoB to absorb general stress losses. The CCyB would be retained but set to zero, reflecting supervisory experience that Pillar 2 has operated as the effective countercyclical buffer in practice. The SyRB would be phased out due to substantial overlap with existing buffers and its status as non-Basel "gold-plating".

In addition, we consider the proposal made by the BCBS and the ECB to request daily/weekly/monthly reporting for G-SIB score calculation is disproportionate. We would propose calculating G-SIB indicators based on quarter-end values, which would already constitute a significant effort. Any other requirements would not be proportionate and would be contrary to the EU's simplification objective.

83. How could the governance arrangements across the three parts of the frameworks be improved, having in mind the objective of ensuring the adequacy of requirements applying to individual banks and avoiding overlaps?

As mentioned above, we propose establishing a centralised EU banking sector forum to monitor the overall capital levels in the system.

Proportionality

84. Would you consider that the current bank regulatory framework is sufficiently proportionate for smaller banks?

Fully agree	Somewhat agree	Neutral	Somewhat disagree	Fully disagree	No opinion

Please explain.

AFME will not provide an answer to this question.

85. Do you consider that the introduction of a dedicated regulatory and supervisory regime for small banks would be warranted in the EU? In your response, please assess in particular how such a regime could meaningfully improve proportionality and efficiency, without undermining financial stability, depositor protection, or the level playing field within the EU.

AFME will not provide an answer to this question.

86. Should there be, in your view, a more consistent and proportionate set of requirements across the prudential, macroprudential and crisis management rules for smaller banks?

- Yes
- No
- No opinion

If your reply is Yes, please explain how such set of requirements should be framed.

AFME will not provide an answer to this question.

87. Should the definition of small and non-complex institutions be amended? If so, should the EUR 5 billion total assets size threshold be increased? By how much? Should size be the only relevant factor or which additional elements could be introduced to better tailor requirements to their risk profiles and operational realities?

AFME will not provide an answer to this question.

Corporate Governance

88. Taking into account the need to put in place sound remuneration policies that do not provide incentives for excessive risk-taking behaviour, but also the need to remain competitive and reduce financial and administrative burden, how would you evaluate the following provisions on the pay of directors and other material risk takers?

	Very positive	Somewhat positive	Neutral	Somewhat negative	Very negative	Don't know/ No opinion

Requirement that the variable component shall not exceed 100 % of the fixed component of the total remuneration for each individual ('bonus cap')					X	
Requirement that the variable remuneration shall consist of different types of instruments ('balancing requirement')				X		
Requirement that a significant part of the remuneration is deferred and vest on a pro-rata basis ('deferral')			X			
Requirement that up to 100 % of the total variable remuneration shall be subject to malus or clawback arrangements ('malus/clawback')		X				
Other				X		

Please explain.

We support a remuneration framework that promotes sound risk management and long-term value creation; however, certain elements of the current EU regime constrain flexibility and competitiveness. We have focused our response to this question on areas which are referenced in the Level 1 text of CRD.

Bonus Cap

The most significant impact of the EU's rules on the remuneration landscape within financial services has been brought about by the imposition of the Bonus Cap in 2014. Analysis of EBA Reports on High Earners[58] shows that this resulted in an immediate increase in fixed pay in the EU banking sector, as firms sought to maintain total compensation at levels comparable with pre-2014 levels. Whereas fixed pay accounted for ~30-35% of total pay for high earners at EU banks before 2014, from the introduction of the bonus cap it rose to ~50-55%.

As noted in our response to Q24 above, this remuneration trend has two key consequences. First, higher fixed costs reduce firms' ability to adjust costs in accordance with group strategic decisions, including in downturns. Second, from a conduct perspective, high fixed pay reduces the relative proportion of remuneration that is performance-based (undermining the calibration of remuneration to goal setting and incentives) and 'at-risk' (i.e. the part of remuneration that is subject to other parts of the remuneration regime, e.g. risk adjustment, malus and clawback).

This has made the EU banking sector an outlier in remuneration, with a corresponding effect on talent attraction and retention. No Bonus Cap has been applied in the EU's main competing financial centres – the US, Switzerland, Hong Kong or Singapore (though each has rules or guidance on remuneration practices, generally in line with international standards such as the

[58] https://www.eba.europa.eu/risk-and-data-analysis/remuneration-and-diversity-analysis

FSB's Principles for Sound Compensation Practices[59]). The UK recently removed its own Bonus Cap, citing its ineffectiveness and unintended consequences.[60] In addition, no other parts of the EU financial ecosystem are subject to the same constraints, nor are other sectors such as technology, with which banks are increasingly intertwined.

We consider that the appropriate ratio of fixed to variable remuneration should be determined directly by shareholders through established governance mechanisms (as is the case already where firms must obtain explicit shareholder approval to increase the variable to fixed pay ratio up to 200% of fixed remuneration). If the bonus cap is lifted, strong governance, particularly shareholder oversight of remuneration policies and outcomes, would continue to apply.

Overall, we view that the removal of the bonus cap (together with a reduction in minimum deferral periods) would be the remuneration measure likely to have the greatest impact on competitiveness of the EU banking sector and EU banks globally.

Balancing Requirement

The 'balancing requirement' (the use of instruments in variable renumeration) strengthens long term risk alignment. However, greater flexibility is needed regarding instrument types, delivery timing, retention periods and dividend treatment. For example, in the first year of the inclusion in the MRT collective, an employee may receive only 30% of their bonus in cash (in the best-case scenario), which may affect their liquidity and be a barrier to talent attraction. Companies should be given the opportunity to establish more flexible frameworks. We note, for example, that the UK also imposes a requirement for 50% of variable pay to be in non-cash instruments, but does not mandate how this is applied across deferred and non-deferred instruments. Alternatively, we suggest that a simplified approach is taken that is more in line with other areas of EU financial services.

Deferral

Deferral supports long-term risk alignment, allows for ex-post risk adjustments and reduces incentives for short-term risk-taking, contributing to prudent management when applied proportionately and calibrated to the nature of the activity. However, the EU has imposed comparatively long minimum deferral periods for in-scope staff within the banking sector, at 4-5 years.

We note that these comparatively long minimum deferral periods for variable pay have likely contributed to the rise in fixed pay we discuss above. A 2024 analysis from the Bank of England concluded that "longer deferral periods may have resulted in firms compensating affected individuals with higher total remuneration and a larger proportion of that remuneration awarded in fixed pay as opposed to variable remuneration"[61].

We suggest that, as part of an overall remuneration review, the length of deferral periods should be benchmarked against global peers. For example, the UK sets minimum deferral periods at 4 years, Hong Kong and Singapore at 3 years and that the US does not impose minimum deferral periods at all, instead relying on a principle-based approach.

We also note under Q90 below that the 12-month hold on deferred instruments (Article 94(1)(l) and EBA GLs on Sound Remuneration §15.6) would benefit from revision.

Malus/Clawback

Overall, the malus and clawback mechanisms are viewed as somewhat positive. They are

[59] https://www.fsb.org/uploads/r_090925c.pdf
[60] https://www.bankofengland.co.uk/prudential-regulation/publication/2023/october/remuneration-ratio-between-fixed-and-variable-components-of-total-remuneration
[61] https://www.bankofengland.co.uk/prudential-regulation/publication/2024/november/remuneration-reform-consultation-paper

effective tools to address misconduct or excessive risk-taking ex-post, enhance individual accountability and reinforce market and supervisory confidence in governance arrangements. However, we note that their implementation, in particular for clawback, is legally and operationally complex in jurisdictions with restrictive labour laws. This creates operational uncertainty versus competitors with more straightforward legal frameworks.

As noted above, were the Bonus Cap to be removed, this would likely have a rebalancing effect on the ratio of fixed pay to variable pay, meaning that the effectiveness of measures such as malus and clawback would be further increased.

Other

Identification of Materials Risk Takers (MRTs) and Exemption Procedures: The quantitative criteria for identifying high earners could be removed (remuneration levels often reflect local market conditions, business segment, or talent requirements rather than actual risk impact) or simplified, for example we suggest that a suggested criterion of 0.3% of highest earners would be sufficient in itself, without the alternative threshold of EUR 750k total pay [62]. This would be more in line with the UK's approach[63], and could be supported by a provision requiring the input of the firm's Risk and Remuneration Committees. Additionally, the 'de minimis' threshold below which certain rules can be disapplied (currently variable pay less than EUR 50k and amounting to less than one-third of total pay[64]) is extremely low. For example, the UK has recently amended its own 'de minimis' threshold to be total pay below GBP 660k, where variable pay does not represent more than one third of employee's total annual pay[65]. Finally, the current exemption procedures under Decision 2015/2218 are administratively burdensome, limited in scope and duration, and complicate mergers and acquisitions.

89. Where do you see potential for simplification of the EU rules on internal governance and remuneration policies of financial institutions without undermining the institutions' sound and prudent management?

We have interpreted this question as considering Level 1 issues that are not covered under Q88 above.

Remuneration

In relation to remuneration, that the rules contained within CRD must be transposed leads to significant regulatory dispersion and differences in the remuneration provisions to be applied, which greatly complicates both the identification process and the implementation of remuneration provisions. A key burden lies in the additional requirements imposed by some Member States in the form of "gold-plating" of EU rules. We note, for example, that Member States such as Belgium, Germany and the Netherlands have applied additional requirements relating to areas such as the Bonus Cap, the identification of in-scope staff and the creation of a Remuneration Officer. This not only increases compliance burden for firms but can also have cross-border effects where, for example, staff in one Member State are subject to the gold-plated rules of another Member State due to their firm's corporate structure. Furthermore, deviation from the EU standard in this respect runs contrary to the aims of the single market, disrupting the flow of talent between Member States and increasing the existing disparity between the banking sector and other sectors which are not subject to the same obligations and within which firms can operate with greater agility.

[62] Commission Delegated Regulation (EU) 2021/923 Article 6(1)
[63] PRA Supervisory Statement SS2/17 §3.3
[64] CRD Art 94(3)(b)
[65] PRA Rulebook Remuneration Part 15.A1

Multiple audit requirements – internal audit[66], external audit, and the above-mentioned Remuneration Officer reports (which is required in Germany for "significant institutions" [67]) - create duplication, where a single independent report should suffice.

The remuneration reporting landscape has also evolved over several years into a complex and overlapping set of obligations for banks. In particular, reporting on the gender pay balance is required under the EU Corporate Sustainability Reporting Directive (CSRD) [68], EBA benchmarking exercises [69] and national measures such as the "Index de l'égalité professionnelle femmes-hommes" in France, the "Entgelttransparenzgesetz" in Germany, or the Real Decreto 902/2020 in Spain. Finally, the EU Pay Transparency Directive (PTD) [70] is currently undergoing transposition and will impose further reporting requirements. The gender pay reporting requirements in these files, which are all driven by the same basic aim, impose a multitude of similar, overlapping and/or conflicting requirements upon firms, for example, in relation to the definition of pay, the methods by which average pay, pay ranges etc. are calculated, the treatment of part-time or interim hires and the format, means and timing by which transparency disclosures must be made.

The result is not only a resource-intensive process for firms, the concern is rather that multiple disclosures have great potential for causing stakeholder confusion – whether management, employees, shareholders or the public. For example, if how average pay is calculated differs (e.g. hourly vs yearly basis), or if data about part-time employees is treated differently (e.g. standardised vs non-annualised/full-time equivalent basis), a firm may be reporting a different gender pay gap in different disclosures. It could be unclear to a consumer of that data which figure to use or how to compare figures between different firms. It could also result in reputational issues for firms, as it may give rise to the perception that firms are seeking to avoid giving definitive information. We suggest that, considering horizontal obligations imposed by the PTD, other sectoral/national reporting requirements are removed and data is instead shared between authorities as appropriate.

Corporate Governance

The current corporate governance framework, notably under Article 74 CRD and related EBA Guidelines is highly complex, overly prescriptive, sometimes creating conflicts with national principles, and leading to duplicated structures, processes, and reporting at entity and consolidated levels. Greater recognition of group-level governance solutions would improve efficiency and legal certainty without weakening oversight. In some cases, the consolidated, sub-consolidated and solo-basis application of certain procedures (as the Material Risk Takers identification process stated in EBA Guidelines) is highly restrictive and obliges entities that are part of Groups to perform almost the same analysis up to three times with increasingly strict criteria, adding unnecessary complexity and operational burden. The increasing granularity of governance rules risks shifting the focus from meaningful outcomes to formal compliance, limiting institutions' ability to organise proportionately to their size, complexity, and risk profile.

As noted in our response to Q24 above, mandates that improperly shift policy choices to lower levels (L2, L3), should be addressed. Obligations created in Level 3 texts with no legal basis should be removed.

Simplification should address cumulative supervisory burdens, including overlapping information requests, inspections, and reviews, as well as insufficient coordination between supervisory functions. This should be underpinned by a stronger empirical basis for governance requirements and supervisory expectations. Adopting a more evidence-based

[66] EBA Guidelines on Sound Remuneration Policies §2.5, recital 66
[67] Section 24 (3) Institutsvergütungsverordnung (German Remuneration Regulations for Institutions)
[68] Directive (EU) 2022/2464
[69] https://www.eba.europa.eu/sites/default/documents/files/document_library/Publications/Guidelines/2022/EBA-GL-2022-06%20GL%20on%20remuneration%20CRD/1036475/Final%20report%20on%20GLs%20on%20remuneration%20and%20gender%20pay%20gap%20benchmarking%20under%20CRD.pdf
[70] Directive (EU) 2023/970

approach, incorporating impact assessments and systematic ex ante and ex post evaluations, would enhance both the legitimacy, proportionality and impact on competitiveness.

Proportionality though embedded in legislation, is often diluted in detailed Level 3 measures and supervisory practice. Establishing clearer, objective criteria based on size, complexity, and risk profile, including the treatment of innovation-driven entities at different stages of development, would make proportionality more effective and ensure regulatory requirements are appropriately tailored. Proportionality should remain risk-based.

Greater alignment with national legal frameworks, together with clearer procedural safeguards and review mechanisms in supervisory determinations, would enhance legal certainty and accountability.

A codification and a stabilization of the EU regulatory framework are needed. Competitiveness should become an essential criterion.

90. In your view, which regulatory measures regarding the EU rules on internal governance and remuneration policies of financial institution could lead to improvements?

We understand this question to refer to matters covered under Level 2 and Level 3 measures.

In our view, improvements should focus on incorporating competitiveness considerations through impact assessments and standardised consultations and should rely more on principle-based texts with fewer Level 2/3 delegations and greater consistency across the regulatory framework. Any changes must preserve the soundness of the European prudential framework, which is a major strategic asset for the EU banking sector, and the diversity of the banking sector, while respecting specific or national organisations and the principle of proportionality, which should be risk based.

Moreover, before introducing additional requirements or more detailed guidance, it is essential to assess whether the existing framework, including the EBA Guidelines on internal governance and remuneration, has effectively addressed previously identified weaknesses and delivered measurable results.

Future changes should:

- Be grounded in clearly identified problems, supported by evidence.
- Be in line with international frameworks (e.g. FSB, BCBS) without going systematically beyond them.
- Aim for a principles-based and outcomes-focused approach at Level 1, with Level 2 and 3 limited to non-essential, technical elements that do not go beyond the Level 1 mandate, scope and obligations. Level 3 texts should not create obligations, should be clearly stated and understood as non-binding, which is often not currently the case in practice.
- Strengthen risk-based proportionality and recognise group-level governance for institutions under consolidated supervision.
- Prioritise supervisory convergence and coordination over additional regulatory layers – for example through better data sharing.
- Make the framework more flexible, e.g. in allowing entities to determine how to align MRTs with risk, substantiate their approach, and reflect it transparently in their Remuneration Policy.
- Respect national corporate law frameworks and principals (e.g. in respect of collective

responsibility, ex-post evaluation). Apply only to new awards made after the implementation date, to avoid firms needing to amend existing award terms or redesign vesting structures, which can be difficult to implement and could undermine legal certainty for both firms and employees.

In relation to specific changes to Level 2 and 3 requirements, we suggest the following changes related to remuneration:

- As discussed under Q88 above, make significant changes to the criteria for the identification of MRTs and exemption process. This should include removing or amending the quantitative criteria, raising the 'de minimis' threshold and simplifying the exemption procedures under Decision 2015/2218, which are administratively burdensome, limited in scope and duration, and complicate mergers and acquisitions. Additionally, we suggest that the Commission re-evaluates the limited exemptions for employees earning above EUR 1 million (Commission Delegated Regulation (EU)2021/923, Article 6(4)), which are based on the "exceptional" nature of remuneration, a condition often inapplicable in markets such as the US, UK, or in wholesale banking.

- Remove the prohibition on dividends during the deferral period (EBA GLs on Sound Remuneration §15.4). The payment of interest or dividends on deferred instruments is a common practice amongst non-financial services firms, putting banks at a disadvantage. In addition, deferred instruments face a significant erosion in value, e.g. due to inflation, without the payment of interest or dividends.

- Remove the 12-month hold on awarded deferred instruments (CRD Article 94(1)(l) and EBA GLs on Sound Remuneration §15.6). Deferral periods already ensure that deferred instruments are held by the Risk Taker and create alignment to the bank and shareholders/investors over a material time period. The addition of a retention period on deferred instruments does not create any substantive policy benefit but does add significant complexity operationally and in terms of employees' understanding of the rules. The UK has now removed the retention period on deferred instruments and allows firms to decide on the appropriate retention period for the part of non-deferred variable remuneration in instrument (if any as the non-deferred part of bonus can be paid totally in cash). There should be more flexibility to apply the appropriate length of retention period for the financial institution.

- Reevaluate the EBA's definition of fixed and variable pay: For example, in relation to the rules on severance pay (EBA GLs on Sound Remuneration §9.3). Severance pay is compensation to a staff member for the early termination of the employment contract, not a reward for performance, so it would not ordinarily be considered variable pay within firms. The current treatment of severance pay as variable pay under the EBA Guidelines, imposes disproportionate complexities for firms in the EU without creating a meaningful positive effect.

We also suggest the following changes related to corporate governance:

- Reconsider the provisions on mapping of duties and individual statements (as consulted on in the EBA's draft Guidelines on Internal Governance in 2025 §68 et seq.). These introduce an excessive level of detail, create legal uncertainty and unnecessary costs, and go beyond both CRD VI, especially as no political agreement in detail was reached regarding these topics and that EBA received no mandate regarding them; they should be simplified and reframed to avoid turning governance into a purely and costly administrative exercise, The CRD scope of requirement for mapping of duties should not be enlarged by the EBA to all members of the management body and to all levels in a group.

- Recalibrate, simplify Fit and Proper templates, assessment process, reputation and

conflict of interest sections.

- Remove the new ex-ante notification requirement, which adds unnecessary obligations and red tape.

Reporting and disclosures

91. Which of the implemented or planned EU or national measures have in your opinion the most impact on reducing undue complexity and burden as regards bank reporting requirements? Please rank the measures according to their impact and provide evidence.

	Fully agree	Somewhat agree	Neutral	Somewhat disagree	Fully disagree	No opinion
Harmonisation of supervisory reporting ITS (COREP, FINREP, ALMM, IRRBB) and validation rules	1st					
EBA filing rules and efforts to standardise electronic submission formats (XBRL filing rules, CSV options, technical guidance)		5th				
European Commission REFIT / Simplification Omnibus		4th				
EBA Data Strategy 2026-2028		3rd				
Work program of the Joint Bank Reporting Committee for 2026	2nd					
Other						

Please explain.

Supervisory reporting has grown into a dense, overlapping set of templates and taxonomies that impose material, recurring costs on banks without commensurate supervisory benefit. The ECB's own simplification workstream recognises this challenge. AFME calls for targeted reductions in duplicative templates and clearer taxonomies, together with the introduction of an appropriately calibrated risk-based materiality threshold for resubmissions.

Among the measures already implemented or currently planned, a series of initiatives would help reduce undue complexity and reporting burden for EU banks:

The JBRC Work Programme for 2026 could act as a key enabler of harmonisation, notably through:

(i) activities on semantic integration including supervisory and resolution reporting requirements with the ESCB statistical reporting requirements

(ii) the development of common definitions and standards for the data that banks are required to report for statistical, supervisory and resolution purposes.

In this regard, the ESCB's IReF (Integrated Reporting Framework) project could also be a key driver for simplification in statistical reporting. By moving towards a harmonised EU wide reporting framework, the project will remove national divergences. This EU level consistency is critical to lowering operational complexity, improving data quality, and reducing needs for bank specific adaptations. **Overall, the combined evolution of integrated reporting - including supervisory and resolution frameworks and the IReF framework offer strongest impact in reducing unnecessary fragmentation and reporting burden**.

Beyond the harmonisation of supervisory reporting via ITSs, harmonising and aligning regulatory updates and supervisory expectations on reporting matters across EU authorities is crucial. All EU supervisory and regulatory bodies (ECB, EBA, SRB, ESMA, EIOPA, AMLA, as well as NCAs) should, building on Regulation 2025/2088, coordinate and align upcoming changes in reporting requirements on fixed, predictable cycles except when specific context require more frequent ad hoc changes. A Regulatory Reporting Roadmap, providing at least 2 years advance notice, would help banks anticipate regulatory adjustments. An annual or biennial "Reporting Outlook" issued by EU authorities could support this. Work around eliminating or integrating the 'ECB Short-Term Exercise' templates into the EBA supervisory reporting framework would reduce reporting burdens and associated costs. The scope of Regulation 2025/2088 should also be expanded to include NCAs, as part of the burden stems from duplicated EU and national requests.

The JBRC could be institutionalised via an amendment to Regulation 2025/2088 to guarantee fuller harmonization of reporting requirements and expectations at EU level, as it reunites all actors relevant to supervisory, statistical and resolution reporting: Commissions representatives at level 1, ESAs and AMLA at level 2, SRB, AMLA and ECB at level 3.

The JBRC could become a consultative entity and permanent single contact point under Regulation 2025/2088, enabled to receive communications regarding duplicative, redundant or obsolete reporting and disclosure requirements.

Simplifying and harmonising the ITS on Supervisory reporting and SRB expectations are key drivers to streamline reporting and provide relief for institutions. Reporting requirements should be rationalised to remove all obsolete, useless or not fit for purpose information (e.g., in COREP, templates include data that are not always capital-related or directly relevant to RWA, for example C33 templates). ITS on supervisory reporting and Pillar 3 requirements also suffer from inconsistencies: within COREP and Pillar 3, between COREP and Pillar 3, and between FINREP and Pillar 3. **All should be reviewed with a view to harmonization.**

Increasing complexity, duplication of information and rising burden require constant adaptation and additional workload. Examples include: the previous foreseen FRTB market risk reporting (published by the EBA in 2024) with disproportionately granular templates covering each step of own funds requirements calculation; duplication across FINREP;
complex template structure and heavy requirements on intra-period expired transactions in intragroup reporting for financial conglomerates; overload of reports in the ITS on ALMM; heavy IRRBB reporting requirements; the SRB's new Expectations on Valuation Capabilities, which structurally review the valuation Framework and require numerous data points as per the existing SRB Valuation Data Set; and multiple ad hoc SRB requests on overlapping topics, such as the Additional Liability Data Report supplementing MREL/TLAC reporting.

Enhancing the interpretation of reporting requirements interpretation through clearer validation rules description is also key. Finally, simplification through the harmonisation and standardisation of reporting submission formats and technical guidance would ensure a common language and help prevent inconsistencies across reporting requirements.

More widely, in terms of disclosure, we do not consider that policymakers suggestion that (quantitative) Pillar 3 disclosures could be derived automatically from regulatory reporting

would deliver any benefit for large institutions as they will still need to consider the qualitative material to ensure that the data and business model of the entity are well understood by market participants.

As expanded on in Q93, the Pillar 3 ESG disclosure requirements under Article 449a CRR3 are a major source of reporting complexity and compliance cost. The extension of these requirements to all institutions, regardless of size and complexity, represents a significant and disproportionate expansion of reporting scope. Banks are required to report on ESG risk categories and sectors that may be wholly insignificant to their business, and to disclose emissions metrics and decarbonisation targets that do not reflect actual credit risk or capital adequacy. To populate ESG disclosure templates, banks must use proxies or request data directly from counterparties, many of whom - particularly following the Omnibus simplification - may no longer be subject to the same disclosure standards themselves. Crucially, much of the information that ESG disclosure templates seek to capture, such as sectoral concentration and geographic distribution of exposures, is already reported under traditional Pillar 3 requirements. Where genuine gaps exist, these could be addressed through targeted, proportionate additions to existing templates rather than through a parallel disclosure framework. To improve the situation, the Pillar 3 ESG disclosure requirements should be significantly simplified. Reporting should be limited to information that is material to an institution's risk profile and capital adequacy. The extension to all institutions regardless of size should be reversed. Requirements should not duplicate information already available under existing Pillar 3 frameworks.

Finally, banks' role within tax systems has shifted significantly over the past decade. With the expansion of Exchange of Information regimes and an increased administrative role in withholding taxes, banks increasingly support tax authorities by providing information on customers and transactions annually (e.g., DAC 2, DAC 6, CESOP, DAC 8). These create significant administrative burdens and compliance costs as banks are effectively required to act as tax collectors and enforce EU wide rules at the point of customer onboarding and monitor customer behaviour. The EU evaluation of the DAC covering 2018-2023 estimates the costs to business of DAC 2 alone at €550million annually. The forthcoming DAC recast is an opportunity to better target the framework to deliver important information to tax authorities without imposing excessive administrative costs on banks.

92. What factors linked to reporting obligations in the regulatory framework contribute most to the compliance costs?

	Low impact	Medium impact	High impact	No opinion
Number of data points			X	
Frequency of changes of the reporting obligations			X	
The difficulty of using regulatory reporting for internal risk management purpose				X
Ad hoc reporting requests from supervisory authorities			X	
Frequency of submission of reporting obligations		X		
Other			X	

Please explain.

We welcome the commitment of the ECB and other European policymakers and regulators to the simplification of the reporting framework and the constructive dialogue that has commenced with industry.

Number of data points

Banks are required to report a very high number of data points under reporting standards, which substantially increase compliance costs and calls for a rationalization of requirements. This should rely on a cascading review following a 'stop-the-clock and cleaning' process before envisaging any new evolution'. Very high granularity is often observed, without directly contributing to capital calculation. Some data are not required under Level 1 Texts or are of limited supervisory usefulness. Duplication of memo items reflecting the impact of transitional provisions should be avoided, as the objective of supervisory reporting is not to monitor their effects.

Frequency of changes of reporting obligations

The issue does not primary stem from frequent revisions of the level 1 or 2 texts but mainly from modifications introduced by supervisors and resolution authorities to their reporting expectations. This is notably the case for the ECB Short Term exercise templates updated annually, calling supervised entities to identify and implement new data points.

On resolution matters examples include:

(i) The 2026 SRB Expectations on Valuation capabilities comprising a version of the Valuation Data Set different from the 2020 one.

(ii) The 2024 SRB Minimum Bail-in Data Template, intended to supersede the Minimum Bail-in Data Set Instructions published in 2020 and updated in 2022.

In both cases banks were still operationalising initial versions when updated expectations were issued, forcing parallel implementation and generating very high costs for banks.

Ad-hoc reporting requests

Additional ad hoc reporting requests from supervisory authorities (SSM, SRB, ESAs) represent a significant share of the current reporting burden and generate additional compliance costs. The examples developed above regarding the frequency of changes of reporting obligations are also relevant here.

Although supervisors are required by legislation to request data only when strictly necessary - relying on a Pillar 2 idiosyncratic approach to limit administrative burden and avoiding duplication through information exchange - general and abstract reporting expectations have accumulated over time (including additional follow-up walk-through and data requests, following ITS submissions which are repetitive). This raises a twofold issue when requests persist, as they are not formalized under a specific regulatory framework and therefore lack a sound legal basis; and inconsistencies arise when ad hoc requests such as the ECB Short Term Exercise templates, do not align with the Level 1 and 2 Texts (e.g., the 2026 STE template on IRRBB/CSRBB). The latest update of the ITS on resolution planning illustrates this. The SRB tends to extensively use the possibility under Article 8 of the ITS to request additional information not covered by the templates (extension of reporting obligations to new entities, request for sub-consolidated reporting, call for anticipated submissions or reporting to each NRA rather than centrally to the SRB). In this respect, Regulation 2025/2088 is a key step forward by streamlining cooperation between the ESRB, ESAs, SRB, AMLA, and the ECB, ensuring information exchange and avoiding undue duplication of reporting obligations by requesting data directly from banks.

Frequency of submission of reporting obligation

High-frequency liquidity supervisory reporting imposes substantial operational costs, with little demonstrated benefit to supervisory efficiency.

Other cost drivers

Additional factors materially contribute to cost duplication:

- Absence of consideration given to materiality on resubmission of historical data leading to unnecessary and costly resubmissions.
- Lack of proportionality applied to thresholds applied by the SRB to determine the scope of non-resolution entities subject to reporting expectations, creating disproportionate burden for small entities.
- Disclosure and reporting requirements imposed at sub consolidation and entity level within Groups as well as supervisory reporting required by NCAs.

(iii) misalignment between Pillar 3 obligations and Pillar 1 requirements;

(iv) duplication and fragmentation with multiple supervisors / regulators requiring similar data in different formats, increasing redundancy, costs and inconsistency risks;

(v) limited structured dialogue with the industry prior to the publication of the supervisory reporting ITSs leading to requirements disconnected from operational realities and an unbalanced cost-benefice trade-off;

(vi) lack of ex-post impact assessments after publications of supervisory reporting ITSs.

For these 2 last issues, the IASB modus operandi could serve as a source of inspiration.

93. What other policy measures, legislative or non-legislative, could be considered to further modernise reporting and reduce the reporting burden?

Streamline reporting requirements

(i) Introduce transparent risk-based Materiality Thresholds for Report Resubmissions - going beyond the EUR 10k absolute threshold in current EBA guidance. Adopt an approach similar to the approach developed by ECB to identify significant resubmissions. New thresholds should be transparent, and interim relief should be granted until a new framework is in place.

(ii) Eliminate Redundancies of Reporting and Disclosure Requirements to at sub-consolidated and individual level.

(iii) Set up periodic “Regulatory Clean-Up” reviews.

(iv) Ensure a proportional and optimal calibration/granularity of reporting requirements and expectations, considering the specific profile and risks of the supervised entities. One area of focus in this regard can be the elimination of absolute reporting thresholds across ITS templates, and limiting submissions to a proportional threshold applicable to the institution (eg. in the case of Large Exposure Reporting that has a €300mm absolute threshold).

(v) Adapt Pillar 3 templates with easy-to-understand information to make a clear distinction between public disclosures and non-public reporting. Content should remain understandable for the market who do not require the same level of detail as supervisors.

(vi) Review all existing consistency checks (EGDQs, validation rules) to assess relevance, accuracy and avoid overlap.

(vii) Anticipate the delivery of final technical packages.

(viii) Reduce Frequency of certain templates that are currently burdensome to report.

(ix) Eliminate or integrate ECB "Short-Term Exercise" templates into the EBA supervisory reporting framework, as they add to the reporting burden of Eurozone banks, especially when they have been repeatedly filed over multiple quarters and are operated parallel to COREP and FINREP. There is also the potential for a draft STE template version for consultation to be made available a few weeks sooner, and recurring requests to be made a part of the formal ITS instead continuing over months/years. This would eliminate the need to have ad-hoc data requests that often follow the STE submissions, and in some cases even preceeding the submissions due-date for items that feed into the annual SREP.

(x) Question the relevance of the EBA annual Quantitative Impact Study (QIS), also known as the Basel III Monitoring exercise. This is an annual set of templates, which are changing every year, further adding to EU banks' reporting burdens and significantly overlapping data content of COREP and in recent years IRRBB templates.

(xi) Reduce reporting to the SRB which adds further overlaps.

(xii) Discontinuation of the EBA Transparency Exercise if data is publicly available in the Pillar 3 Data Hub

(xiii) Discuss Lower volume and complexity of ITS reporting for 3rd country branches.

(xiv) Better explain rationale for reporting requirements by introducing a "Regulatory Rationale Annex" for each change explaining its legal basis, the diverse policy options and expected cost impact (same transparency exercise could be set for taxonomies).

(xv) Discontinuation of templates where there is a large degree of overlap with other submissions (e.g. between FINREP & COREP).

Build a more effective regulatory approach

(i) Make simplicity a guiding principle, between policy objectives and data needs (e.g. implementation of "supervisory use tests")

(ii) Favor cost/benefit analyses and pragmatic solutions in accordance with the proportionality principle

(iii) Rely on JBRC pre-assessment, consultation prior to formulation of reporting requirements

(iv) Harmonise and align regulatory updates across EU authorities. EBA could expand its work on a harmonised and redundancy-free reporting enabling easier data sharing under Regulation 2025/2088. Any changes to definitions or taxonomy would be first discussed within the JBRC.

(v) Establish a "One-Stop Shop" for regulatory reporting by enhancing data-sharing between EU regulatory and supervisory stakeholders.

(vi) Regulation 2025/2088 could be revised to institutionalize the JBRC and enable it to pre assess the supervisory justification for new reporting expectations.

(vii) Building on Regulation 2025/2088, better explain rationale for reporting requirements considering their specific supervisory purpose.

(viii) Implementation of more effective data sharing across authorities. The EBA feasibility study on integrated reporting (Art. 430c CRR) highlighted that duplicated data collections remain the main source of inefficiency. Authorities should systematically share collected data, use a common data dictionary, and apply harmonised validation rules so that each data element is submitted only once and reused for supervisory, statistical, and resolution purposes.

Conduct more rigorous impact assessment and allow a more structured dialogue with banks

(i) Conduct impact assessment with cross-sector review of operational burden and market impacts, assess feasibility and proportionality, and identify whether the requested information is already provided to another EU authority, in line with Regulation 2025/2088.

(ii) Reassess the information deemed relevant for the supervisory reporting compared with information relevant for other exercises such as the SREP or ad-hoc data collection.

(iii) Greater collaboration with structured consultations, technical exchanges and workshops following an approach similar to the IASB, to discuss policy options and increase transparency.

(iv) Better communication of expectations about validation checks that are not live yet and implications on re-filings for the same (current expectation is a simple 5-quarter refiling which is extremely burdensome).

Streamline calendar and set reasonable date for compliance

Set a minimum delay between entry into force and application with greater consideration given to compliance timelines to avoid operational risks and costs such as those observed for CRR 3 / CRD VI Banking package. Consider related reporting packages (such as COREP, Large Exposures and FINREP) where postponements are envisaged to ensure consistency.

G-SIB Reporting

The proposal made by the BCBS and the ECB to request daily/weekly/monthly reporting for G-SIBs is in our view disproportionate. There is a clear imbalance between the potential window dressing compared to the costs such reporting would incur. According to the BCBS and the ECB, the year-end drop in volumes in itself proves the existence of window-dressing behaviour. However, other factors should have been analysed and quantified beyond the traditional client activities slowdown: (i) OTC derivatives must be compressed at least twice a year according to EMIR; this has to be done for risk management purposes and as such should not be considered as window dressing and (ii) Repo are highly correlated with govies, and we have shown that both primary and secondary markets of govies drop significantly at year-end, mechanically resulting in a drop in related repo activities.

Considering the lack of evidence and the cost/benefit assessment of proposed revisions, we would recommend that policymakers consider the fact that the industry is already able to report the GSIB indicators at each quarter-end (point-in-time value). Averaging quarter-end values would produce better-quality data from over the financial year and supervisors to identify and better analyse any perceived management of indicator values on the part of G-SIB sample banks, while minimising undue operational complexity.

Sustainable Finance Reporting and Disclosure Considerations

AFME welcomes the measures agreed as part of the Sustainability Omnibus package. The simplification of CSRD and CSDDD provide important steps towards cutting complexity in sustainability reporting and due diligence requirements across the EU. However, it is too early to fully assess the impact of these measures, as the review of key level 2 measures is still underway.

For example, the ongoing simplification of the European Sustainability Reporting Standards (ESRS) is essential to reduce burdens on preparers, including banks, while maintaining meaningful information for investors and banks as users of sustainability-related information. As set out in the cost-benefit analysis for the revised ESRS, simplification of the ESRS does not automatically translate into an equivalent reduction in reporting effort, particularly for financial institutions. It is therefore important that the European Commission maintains key simplifications proposed by EFRAG and builds upon EFRAG's work to address continued challenges for the financial sector[71].

We remain of the view that banks' Green Asset Ratio (GAR) reporting does not provide meaningful, comparable information for investors and continues to impose significant reporting complexity and burden, negatively impacting the competitiveness of European banks. While we welcome many of the EU Taxonomy reporting simplification measures introduced through the recently adopted Delegated Act as part of the Sustainability Omnibus package, EU Taxonomy reporting remains burdensome for banks (and in turn their clients), with the EU an outlier compared to other jurisdictions. The "optional relief" for reporting GAR set out in the Delegated Act provides very limited relief in practice, and the changes to the GAR KPI only partially address banks' concerns about the design and usefulness of the ratio. AFME has previously called for the European Commission to assess whether the GAR is achieving its policy objectives and conduct a fresh impact analysis assessing the cost of reporting for financial institutions and their clients.[72] It is therefore important that the European Commission goes further to simplify EU Taxonomy reporting (see also our answer to Q95 below).

Simplification of CSRD + EU Taxonomy Disclosures

The Commission should deliver simplification of CSRD reporting by maintaining key simplifications and addressing continued challenges for the financial sector in the revised ESRS

The Commission should deliver on its commitment to a substantive review of EU Taxonomy reporting[73] including further simplifying EU Taxonomy reporting for banks.[74] As AFME has previously highlighted[3], Taxonomy reporting for banks is not achieving the Commission's policy objectives and is not providing meaningful information for investors yet continues to create significant burdens for banks and their clients. The Commission must proceed with an ambitious, substantive review of the Taxonomy technical screening criteria and disclosure regime. As part of this review, it must go further to simplify the Green Asset Ratio so that it is

[71] See AFME recommendations on draft ESRS: https://www.afme.eu/media/uznjoob1/afme-position-on-revised-esrs.pdf
[72] See AFME response to European Commission consultation on Omnibus Taxonomy Delegated Acts, March 2025: https://www.afme.eu/media/yadhxdxo/afmeisdaresponsetoeuropeancommissionconsultationonamendmentstothetaxonomydelegatedacts.pdf
[73] Recital 12, Delegated Regulation (EU) 2026/73.

comparable across institutions and permanently remove the KPIs for Fees & Commissions and the Trading Book due to their limited relevance and usefulness.

A majority of AFME members call for a simplified GAR to be made a voluntary reporting requirement. In a similar vein to the OpEx KPI for non-financial undertakings, the GAR does not fully capture banks' provision of sustainable finance across different sectors, geographies and business lines. Notwithstanding changes to the ratio brought in by the Omnibus Delegated Act, the usefulness of the GAR is still significantly limited by factors such as the proportion of business in sectors covered by the Taxonomy, the services that they provide and the proportion of their balance sheet outside the EU. A voluntary, simplified GAR would retain a common metric which could be requested by investors and other stakeholders where they see value in the information, while reducing reporting burdens for banks where the GAR is less relevant to their business.

Simplification of Prudential ESG Disclosure requirements

CRR3 requires the EBA to adopt specific Pillar 3 disclosure templates for ESG, and banks must report on sectors and risks that may be immaterial to their business and disclose emissions metrics and decarbonisation targets that do not reflect actual credit risk or capital adequacy. Banks are required to use proxies or request data directly from counterparties, many of whom may not be subject to the same disclosure standards, imposing undue administrative and operational burdens on both banks and their counterparties. Meanwhile, the relevant information is already provided under traditional Pillar 3 requirements, making compliance with ESG requirements duplicative and unjustified, diverting valuable resources from banks and their clients. **Streamlining Pillar 3 ESG disclosure obligations, reducing Pillar 3 ESG disclosures to an annual basis, and aligning the scope for counterparty data collection to companies which are mandated to report under CSRD are priority deliverables to support the Omnibus objective of reducing the reporting burden.** As per our response to EBA's Consultation Paper on ITS on disclosures of ESG risks, equity exposures and aggregate exposures to shadow banking entities, we recommend reviewing – and in some instances removing – templates 4, 5 and 6-10.[75] Taxonomy disclosures (including the GAR and BTAR) should be removed under Pillar 3 as the Taxonomy is not a tailored risk management tool. If the revised Pillar 3 disclosure ITS due to be published in Q1 2026 does not take on board industry comments submitted during the consultation period, which made the aforementioned significant simplification suggestions, then we would request this is also addressed by changes to the level 1 mandate.

94. Do you identify any instances where the reporting requirements for banks also lead to an undue burden for bank's clients? Please explain where this is the case and how this could be improved.

It is important to recognise that sustainability reporting for banks including through CSRD, EU Taxonomy and Pillar 3 reporting necessitates banks to obtain detailed information from their clients. This can be addressed by streamlining reporting for banks.

95. In light of the ongoing revision of a number of pieces of EU legislation on sustainability (CSRD delegated acts, Taxonomy delegated acts, SFDR), do you see the need for amending any provision of the banking regulatory framework with a view to ensure achieving the objective of properly managing sustainability-related risks faced by banks?

It is essential that the Commission reviews the ESG risk management and disclosure requirements in CRR3/CRD6 through a simplification lens, ensuring they are focused on the management of climate and environmental risk by removing under-developed provisions related to S&G risk, minimising unnecessary regulatory burden for banks, and supporting their competitiveness. Current ESG requirements go beyond international standards and are often duplicative and immaterial to actual risk exposure, creating significant operational burden that ultimately affects the cost and availability of financing for EU companies[76].

Achieving the EU simplification and competitiveness objectives requires a return to more proportionate, risk-based supervision, and ensuring climate and environmental supervisory expectations are embedded in existing prudential risk management practice. Even when climate-related risks materialise, they do so as drivers of traditional banking risk categories, rather than as a standalone risk type requiring an expansive datapoint catalogue. While the Omnibus package has simplified requirements for some companies, banks still contend with onerous ESG-related requirements, reporting obligations and supervisory expectations, with the compliance burden directly impacting their clients. To satisfy their own rules, banks will be left responsible for collecting information from companies no longer in scope of CSRD nor required to publish a transition plan – through questionnaires, data requests, contractual clauses, onboarding processes, third party providers and periodic reviews. The compliance cost for the bank is transmitted to real economy companies through increased cost of capital, onboarding friction, reduced appetite for complexity, or constrained capacity to serve smaller or less sophisticated counterparties. Likewise, prudential transition plans are duplicative of other existing provisions such as climate-risk stress testing which will assess the transition risks for firms and their clients' exposures. Hence, a full review of the ESG provisions in CRR3 and CRD6 should be undertaken to ensure the provisions are fit for purpose for banks.

Review the mandate and content of ESG risk management guidelines

It is important for legislators to revisit the CRD6 mandate for the EBA ESG risks management guidelines (under Article 87a (5)) to ensure that ESG data expected to be obtained are aligned with the objectives and revised reporting perimeter and simplified reporting standards under the Omnibus 1 initiative. The guidelines as currently drafted require banks to collect a detailed set of datapoints, including transition plans, from "large counterparties" as defined by the Accounting Directive (exceeding at least two of the following three criteria: of EUR 25m balance sheet, EUR 50m turnover and 250 employees). The CSRD scope as amended by the Omnibus no longer aligns with the "large undertakings" definition in the Accounting Directive and only requires companies with >1,000 employees and EUR 450m turnover to report on sustainability. The Guidelines thereby maintain a higher standard of requirements for data collection compared to non-financial companies which are no longer mandated to report under CSRD. If banks are expected to meet reporting obligations without access to the necessary client data, there is a real financial and resource cost attached to banks which will need to establish and rely on bilateral requests/KYC as well as 3rd party estimates, meaning a loss of competitiveness resulting from:

Distribution of non-standardised questionnaires to clients, which would:

- Increase the reporting burden for clients and counterparties of financial institutions which are no longer in scope of the CSRD —contrary to the co-legislators' intent to reduce such burdens.

- Generate non-standardized fragmentation of data, limiting comparability and usability.

[76] EU supervisors' own exercise (Fit-for-55 climate scenario analysis) has shown that climate-related risks have limited systemic impact, especially for GSIBs, yet information requests remain extensive.

- Very high uncertainty on obtaining the data if there is no legal requirement for banks' clients to provide it (Banks have previously trialed this method but without a regulatory requirement forcing them to disclose, clients prefer to arbitrage their business by going to a bank that will not force the issue).

- A lack of harmonised data leading to greater reliance on proxy data (under para 27), increasing costs and compromising data quality and reliability – especially as ESG data providers are not regulated – thereby reducing its effectiveness for internal governance and risk management.

Beyond the scope of reporting, the datapoints set out in paragraph 28 of the guidelines should be closely calibrated to the revised datapoints in the simplified European Sustainability Reporting Standards (ESRS) and the forthcoming voluntary reporting standard for companies outside of the scope of CSRD.

Simplification of Prudential Transition Plans (PTPs)

Introduced under CRD6, PTPs consider ESG risks over long-term time horizons (at least 10 years) with quantifiable targets and processes to monitor and address financial risks stemming from such risks. Given most loans mature or are restructured before this period, and risk transfer mechanisms further limit the likelihood of ESG risks materialising over such timeframes, the uncertainty inherent to such a long-term timeframe undermines the credibility and utility of such plans, especially given other measures such as EBA guidelines to manage such risks exist in the short and long term.

PTPs in CRD6 should therefore be reviewed to consider the extent to which is they are useful as a risk management tool as intended, or whether the requirement should potentially be removed, taking into account the progress banks have made in relation to ESG risk management, climate scenario planning and stress testing and incorporation of such risks in their ICAAP/ILAAP. At a minimum, PTPs should be significantly refocused on transition risks only as these relate to climate and environment risks and simplified and slimmed down to be more principles based. For instance, transition risk assessments beyond 5 years should not be integrated into regulatory assessments, business planning or decision making given their relative uncertainty. For simplicity the obligations should only be applied at group level for EU headquartered banks or at least reviewed to ensure proportionate consideration such as materiality thresholds and simplified requirements for compliance of subsidiary banks within group contexts and small entities of non-EU banks. Further, small investment firms, with back-to-back risk management business models should not be required to produce a costly PTP, if their climate risk is immaterial.

On the supervisory side, with reference made to the new powers granted in CRD6 and reflected in draft revised EBA SREP GL[77], supervisory intervention on governance and risk management based off PTPs should only be undertaken where there is an unacceptable level of risk. Any interventions in business strategies should in any case be approached critically, as they could amount to de facto management by the supervisor. Supervisory powers in CRD6 should therefore be aligned with any changes to the scope of PTPs and at the very least supervisors should adopt an approach based on 'excessive residual risks' (after risk mitigation) to ensure a better application of the proportionality principle, should these extensive supervisory powers remain in legislation.

Other direct changes to CRR3/ CRD6:

[77] See Article 104(1)(m) CRD6.

The level 1 review should include revising current ESG legislative provisions to focus on “Climate and Environment risks”, where there are more maturity and supervisory attention, and to remove “S&G” factors from the level 1 text and related guidelines.

Ensuring supervisory guidance does not exceed the level 1 legislation

Without changes to the level 1 texts, supervisory authorities are bound by the current legal text and not obliged to make changes to the current guidelines and guidance. The ECB’s widespread use of “soft law” guidance such as the guide on Climate and environmental risks creates de facto requirements for banks, increasing regulatory complexity and compliance burden and further undermining the competitiveness of banks operating in the EU. Often such guidance is published before the finalisation of the legislation that underpins it, and soft law instruments have weaker consultation mechanisms than formal legislation, making them less transparent and harder to challenge. This proliferation of rules exacerbates competitiveness issues for European banks, strengthening the case for Level 1 revisions.