Svenska Bankföreningen
Finance Sweden

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Finance Sweden's proposal for simplification of EU regulation

The European Commission has presented its competitiveness compass, which provides a framework for the Commission's work with both vertical and horizontal tools. An important part of this compass that Finance Sweden would like to highlight is simplification, which is aimed at reducing the regulatory and administrative burden on companies. Finance Sweden, which has been actively working for many years to achieve a more transparent regulatory process and more cost-effective rules, takes a very positive view of the simplification path that legislators in both the EU and nationally have now embarked on. We would therefore like to take this opportunity to share our proposals for simplification.

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General observations

A holistic perspective

The overall picture and purpose often fall away during the work on EU regulations. This applies, for example, when the purpose has been to consolidate existing regulations. Instead, the focus is shifting to introducing new requirements without sufficient valuation of either the effect of existing regulations or the need for new rules. Retail Investment Strategy (RIS) is an example of an attempt to address the problem of regulatory fragmentation through a comprehensive approach (for comments on the content of RIS see below), the same overall analysis should be carried out in more areas. Moreover, when designing a new or amended regulatory framework, it is easy to lose sight of the relationship with other regulations, which may result in overlaps and conflicts between regulations. This obviously makes implementation challenging for companies.

Holistic impact assessments are necessary before deciding new and revised regulations, including horizontal analyses how the initiative interlinks with other regulations as well as cost-benefit analyses.

“Critical/important/essential” activities of banks are currently regulated in several different regulatory frameworks, from slightly different perspectives (BRRD/DORA/operational risk, etc.). Often it is roughly the same activities that are affected. Different definitions/scope of the rules regarding these “critical/important/essential” activities create overlaps, inefficiencies and administrative costs for the institutions. It would be desirable to consider whether it is possible to find a common definition of what constitutes “critical” activities, not least to ascertain that the institutions can focus on management of such activities.

Regulation should be based on best practice

Fundamentally, a well-functioning EU capital market can only be created by taking advantage of the existing knowledge of European businesses and investors by making more explicit use of best practice when new regulation is considered, including a “needs test” whether regulation or self-regulation is the best path forward. The EU's role should be to remove the obstacles to a single market and address misconduct, not to shape the market through heavy-handed regulation that risks hampering well-functioning solutions already in place.

The need for a regulatory pause

It goes without saying that the banking sector, due to its societal importance, must be subject to regulation. It is therefore necessary that the simplification supports the overall objectives of said legislation and does not lead to an uncontrolled deregulation which creates risks and regulatory uncertainties for banks and other financial market actors.

At the same time, the EU should consider a 'regulatory pause' in the financial area to allow for a clear overview. New initiatives should only aim to remove unnecessary requirements, support harmonisation or to consolidate existing regulation, not to introduce new requirements.

Further, it is easy to introduce new rules but difficult to remove them once they are in place. One solution could be to use sunset clauses (i.e. provisions that automatically repel a rule in case the regulators do not actively decide to extend it) for rules that by their very nature aim to address a specific observed situation. Such clauses could be used for new legal instruments as a whole or for single areas or provisions.

The level of detail in EU regulations

The overly detailed regulatory framework leads to extremely extensive and bureaucratic supervision (the ECB is the most obvious example here), which requires many detailed policy documents, process descriptions and general documentation that are burdensome for institutions to produce and maintain. They also risk shifting the focus away from material risks and leads to high costs for both authorities and firms.

The IRB approach is an example of framework with such an excessive level of detail where it has become nearly unmanageable for both the regulated firms and the authorities. At the same time, the EBA guidelines are still so unclear that the ECB needs to issue documents of several hundred pages to clarify.

In addition to level 2 rules and guidelines, there are now several other types of other documents with unclear legal status from, for example, the ESAs and the ECB, often with conflicting requirements. The landscape of rules and documents needs to be more harmonised - it is almost impossible for supervisors and institutions to relate to all the details, and it is therefore not legally certain. If such an amount of clarification is deemed to be needed at lower levels, it is probably a sign that the regulation was not fully thought through from the start.

The reporting rules on transactions of various kinds (derivatives, securities financing, short selling, shareholding notifications, etc.) are another example of very extensive regulation. Transparency in securities markets is of course important, but the requirements should be reviewed to reduce the administrative burden and ensure that the existing requirements are effective.

There is also a risk that overly detailed regulations lead to a standardization of different institutions' operations and risk management. Such standardization may not only create systemic risks but also inhibit innovation. The development of new products for pension savings, for example, is hampered by rules on risk-taking that in practice counteract the long-term approach that is necessary to generate good returns. The framework for information and advice is now so detailed that it in practice governs product development, regardless of what consumers need. New products should not be the result of regulation. Instead, regulation should be based on good examples developed by individual companies in competition with each other to best match consumer needs.

Several regulations regarding outsourced activities, e.g. DORA, require institutions to introduce specific contractual terms. The contractual terms can however only be introduced after negotiation with the counterparty, and this also means that the requirements will not always be met. If the purpose is to ensure certain conditions this should, where appropriate, be put into legislation to ensure validity for all parties and from a certain date.

The need for precision

A continued use of regulations rather than directive requires much better precision at level 1 in order to avoiding having to deal with essential elements at levels 2 and 3. The alternative, to achieve sufficient legal certainty, would be a return to the use of directives where individual Member States would instead to achieve the necessary precision, but there are of course harmonization arguments to be made against that solution.

Implementation times / roll-out times

Implementation times / roll-out times must be realistic and consider, for example, the institutions' IT development needs. Level 2 rules and any guidance from the ESAs need to be in place well before the overall regulatory packages come into force. DORA and the Accessibility Directive are some of the most recent examples of when this has not been the case.

Payments

In general, payment regulations tend to be very detailed also in areas where less detailed requirements should be sufficient to meet underlying aims. This results in unnecessary high costs of compliance and squeezes the competitive space between Payment Service Providers (PSP). The detailed approach to regulation is further reinforced by level 2 rules.

Instant Payment Regulation

All PSPs in scope are required to send bulk payments with instant settlement. Bulk payments are currently processed in batches, a practice that is safe and efficient. There is no evidence that bulking and debulking batch payments will provide material customer value for the majority of payment service users (PSU). Hence bulking and debulking services should be placed in the competitive space.

DRAFT Payment Service Regulation (PSR)

The draft PSR needs to be aligned with a few other regulations:

- Dashboards needs to be aligned with FIDA dashboards.
- Financial Information Service Providers can be monetized in FIDA, but not PSR.
- Verification of Payee requirements differ between the PSR and IPR.
- Conflicting requirements when detecting suspicious activity, if fraud related, information must be given to PSU, If AML-related, information sharing is prohibited.
- Finally, reporting requirements under PSD2/PSD3 and PSR should be subject to scrutiny from a simplification point of view.

Overlapping reporting obligations

Complex payment statistics and transactions data to different authorities and purposes with different APIs e.g. CESOP, PSD2 and Central banks.

Markets

Asset management

- Regulations for screening foreign direct investments within the EU should exempt fund management companies. Therefore, the regulation (EU) 2019/452 should be reviewed.

- Revise the PRIIPS regulation and remove requirements for calculating implicit transaction costs and profit scenarios.

- As regards shareholding notifications (EU Transparency Directive), further harmonisation would de facto lead to simplification. For example, through restrictions on national rules.

- Discretionary management is subject to different categorization across regulations. In MiFID discretionary management is categorized as a service whereas it is categorized as a product in SFDR. It should be recognized as a service in SFDR as well, to achieve alignment with MiFID

- The exemption from the trading requirement in Art 23 MiFIR, for activities mentioned in Art 2.5 of RTS 22 is limited by its wording to activities between professional clients and/or eligible counterparties. There seems to be no strong argument for this and ESMA has previously proposed amendments. Rather, a letter interpretation could be harmful. The proposal is to remove the restriction to professional and eligible counterparties in Art 23(1)(b).

  MiFIR and MAR (the Market Abuse Regulation) rules have led to major problems when moving from (to) ordinary custody accounts to (from) endowment policies where the policyholder is the same person as the custody account holder. The transaction must be published according to MiFIR. Since the transaction does not lead to a change in the beneficial owner of e.g. the share, it can be questioned from a market abuse perspective. It is proposed to introduce an exemption from the transparency requirements (including the trading requirement) for similar transactions.

- Remove requirements under MAR, for measures for market surveillance for fund management companies.

Retail

RIS – specifically “value for money”

Ensuring that financial products provide value for money to the customer is central to RIS. However, the idea that the producer should compare and evaluate their products and their costs in relation to benchmarks and the products of other institutions could have a controlling effect on pricing. It is likely to have an inhibiting effect and lead to a market with increasingly passive products at the expense of active ones. If the Commission wants to ensure smooth investment flows across the EU, with increased financial competitiveness, a rethink with renewed analysis is needed. In this analysis, it is important not to unnecessarily create problems for existing, well-functioning products in the Member States.

Financing

Coordination of work on customer protection rules at EU and national level should be ensured. As mentioned above, EU rules should not create problems for existing well-functioning products where regulation already exists and achieves the same objective.

Securities and funds

The MiFID rules on advice and portfolio management regulate in detail the exchange of information between firm and client, what questions to ask, on what topics and how to process the answers, what information to provide to the client, and where, when and how. The amount of regulation risks hampering the development of advisory and portfolio management services.

The product rules on funds (UCITS and PRIIPs) regulate in detail how a fund should be designed, what it may contain, when and how clients should receive information and how. These are not general guidelines but several hundred pages of legal text at different levels and templates for how the information should be presented, what it should contain, fonts, colours, etc. This risks hampering the development of funds or fund-like products

Digitalisation

Data and AI Regulations

- The Commission should develop a clear overview of the relevant horizontal and sectoral legislative frameworks and their interplay. For example, the financial industry should be scoped out of the horizontal Data Act due to the incoming sector specific FiDA regulation). Also, the interplay between the AI Act and GDPR should be clarified. A lot of unnecessary efforts could be avoided and invested in competitiveness boosting actions if guidance regarding important new legal provisions was provided by the legislator at an early implementation stage.
- Concerning the AI system definition under the AI Act and the guidelines that are currently in preparation – the Commission should be called on not to <u>not</u> scope in logical regression used in credit scoring, especially when employed on a stand-alone basis, considering that it does not transcend "basic data processing" and, therefore, cannot be considered an AI system in the meaning of the AI Act. We urge to consider the opinion of the ECB to not classify AI systems used to evaluate creditworthiness of natural persons as high-risk AI systems, in order to avoid the potential extra burden on an already heavily regulated industry.

FiDA (Open Finance)

- FiDA does not consider the real demand for specific customer data and the risk is that financial actors need to develop features that will not be used. Our proposal is to apply a market-driven approach.
- We invite the Commission to reconsider the risk of market fragmentation stemming from numerous developments of schemes across the EU due to the lack of standardisation regarding data and interfaces (in part caused by the rushed legislative process), which will have an adverse effect on the competitiveness of the industry.
- The implementation time is too short, which means that companies may be forced to prioritize the implementation over other pressing issues in order to keep up with the transition. It should be borne in mind that Open Finance is about a fundamental change for the financial industry. FIDA needs to be implemented with a phase-in approach for the different data categories that are in scope.

The Framework on European Digital Identity

To overcome legal uncertainty regarding the European digital identity wallet and the payments use case – we call on the Commission to provide an official clarification /statement concerning the legislator’s intent in this regard.

Digital operational resilience and cybersecurity

The European Commission should swiftly adopt delegated and implementing acts, especially those that are mandatory for the implementation of DORA (in particular, the RTS on sub-contracting) and Cyber Resilience Act (the delegated act under Art. 2 further clarifying the applicability of the Cyber Resilience Act (CRA)). Considering the latter – we urge the Commission to scope the financial industry out of the CRA due to overlapping and more stringent requirements already set under DORA in order to avoid unnecessary double implementation efforts and reporting.

ESMAs guideline on cloud services should be withdrawn, as this guideline overlaps with DORA.

Sustainable Finance

General

To address the challenge of climate change, support the EU transition to climate neutrality and achieve the objectives of the EU Green Deal, the EU has put forward a large number of policy initiatives. Moreover, to channel finance towards the transition to a more sustainable economy, a partly fragmented regulatory framework applicable

specifically to the financial sector is entering into application. As a result, banks are facing multiple reporting requirements, which are, at times, overlapping and/or inconsistent. The amount of sustainability data that banks are required to report is disproportionate to the benefits and makes it difficult for investors to make informed decisions. It is therefore important to reduce inconsistencies, remove duplications and unnecessary complexity and review the usefulness of the framework.

The Omnibus Package 2025

The Commission Omnibus package for simplification of the sustainable finance regulation in the fields of CSRD, CSDDD and the taxonomy, presented in February 2025, is a welcome step in the right direction.

- Taxonomy regulation: We support proposals to substantially reduce the extent of the reporting of the Green Asset Ratio (GAR) in various templates. The calculation of the key figures in the reporting templates should also be changed so that the numerator and denominator always contain the same measurement basis. Disclosures of information of negligible information value, e.g. on the Trading Book and Fees & Commissions, should be eliminated. The further ongoing revision of the GAR should lead to increased value for financial institutions and should be accompanied by a thorough assessment of the overall information value of taxonomy disclosures.
- CSRD and ESRS: There should be a further considerate reduction and clarifications in reporting requirements, focusing on decision-relevant data, to decrease administrative burdens. The sector-agnostic reporting standards should overall be better tailored to financial institutions. One specific suggestion could be to reduce the required disclosures about governance as those overlap with existing corporate governance (CG) reports. Another could be to clarify the treatment of all the assets (and not only UCITS/AIFs that are already to be explicitly excluded in the reporting) of a fund management company that is owned by a bank.
- CSDDD: We welcome the proposals from the Commission to simplify parts of CSDDD and delete the review clause for inclusion of financial institutions' downstream value chain, given the complexity and the consequences of extending the scope to the downstream part of financial undertakings on corporate sectors and SMEs.

However, more needs to be done to make the sustainable finance regulation fit-for-purpose. Specifically, the regulatory oversight must cover also the specific requirements and expectations that banks meet as part of the risk management and disclosure requirements in CRR3/CRD6, further specified in an ITS on ESG risks disclosures in Pillar 3 reporting and EBA Guidelines on the management of ESG risks. Without a holistic approach, the simplification agenda will not reach its objectives, not even for smaller companies because of the trickle-down effect of the

requirements. Taxonomy disclosures should not be duplicated in Pillar 3 reporting and banks should not be required to gather any unnecessary data from clients for risk management purposes. The administrative burden should be eased by the requirements of data gathering for risk management purposes being further aligned with the proposed simplifications for smaller companies' reporting.

It is of paramount importance that companies do not have to incur costs for implementing regulations that later will be amended to exclude the same companies from the scope. That need to be considered for smaller companies and subsidiaries in large banking groups, who otherwise may have to start reporting only to be excluded from the scope at a later stage.

Specific comments about the proposals in the Omnibus Package will be provided separately at appropriate times in the legislative process.

Further alignment between regulations

The scope and definition of the value chain for financial institutions should be standardised to ensure consistency across the CSRD, CSDDD, CRR3/CRD6, the taxonomy (minimum social safeguards) and other relevant regulations. This consistency is essential to avoid the need to collect different data for similar KPIs across various regulations. Firms need clarity of direction from regulators when regulations run at a tangent and seemingly regulate the same question. Similar but non-identical reporting requirements create unnecessary reporting burdens. Ideally, the same type of information should only be requested once. Definitions, methodologies, and delimitations must be harmonized to eliminate overlapping reporting requirements.

The Commission must ensure that the methodology across the various transition plan requirements, in CSRD, CRD VI and CSDDD are aligned and that the requirements are structured to reflect the differing scope of the three directives. CSDDD, CSRD and CRD IV all contain requirements on transition planning but with different nuances. It generates overlaps in the requirements credit institutions have to comply with. In addition to the differing focus areas, complexity is further increased because the three directives do not apply to the same entities. While it is important that the overarching ambition remain clear (i.e. net-zero no later than 2050), ensuring consistency and allowing for more freedom of navigation (as opposed to overly detailed requirement) would be beneficial for the needed transition.

Regarding client sustainability preferences (MiFID2 and IDD) and financial product disclosures (SFDR): The regulatory framework on sustainability and sustainability preferences is highly detailed, making it difficult to ensure that the client understands the purpose and rationale for obtaining sustainability preferences. The introduction of

a standardized model for profiling sustainability preferences would simplify matters for companies and customers. Moreover, the SFDR review needs to consider the changes introduced through the Omnibus package.

Prudential regulation

EU macro prudential regulatory framework (capital-based measures)

Consider whether there is scope for simplifying/streamlining the buffer framework or providing better guidance on how to use it.

Avoid double counting of risks: The macroprudential framework should be developed in a way that ensures a more harmonised approach across the EU/EEA, while at the same time leaving enough room to consider national specificities. Risk-weight floors according to Article 458 CRR overlaps functionally with the output floor under the coming CRR3 and should be abolished to avoid double counting of risks, unnecessary complexity and diverging national solutions for internal model constraints.

Establish a more homogeneous and predictable use of systemic risk buffer (SyRB) and the O-SII buffer by:

Introducing a scoring model for the SyRB, which is fully aligned with the scoring model for the O-SII buffer.

Introduce a cap and a floor for the O-SII buffer and introduce a requirement to assess systemic importance based on the entire EU market, rather than on systemic importance for one MS market.

Remove the mandate for authorities to put the SyRB “on top” of the G-SII / O-SII and re-introduce the “the higher of the two”-rule from CRD4.

Positive neutral rate” for the Countercyclical Capital Buffer (CCyB): The use of the countercyclical buffer differs significantly between countries and the transparency on the need for increases to the buffer rate is missing. Several countries largely have used the possibility to set the buffer rate based on subjective measures which makes it very difficult for banks to predict and anticipate the coming changes.

IRB – simplified processes for model improvements

For changes triggered by banks on-going review, aimed at improving model performance and adapting to new information these are typically viewed as part of the model life cycle.

To avoid unnecessary strains on both regulators and institutions it would be good if regulation could be simplified to allow more flexibility to view these type of changes as requiring notification rather than prior permission. Waiting for prior permission

may lead to extended use of models that the bank view as suboptimal, negatively impacting the user acceptance of IRB system. Alternatively, regulation could provide additional guidance to regulators and institutions on a simplified application process for material changes of this type to allow for a faster implementation.

Clarification regarding the legality of storing personal data for future IRB models

The CRR/CRD require the use of historical data, including personal data, to predict default or loss given default. However, a broad application of personal data storage for potential use in future IRB models could be seen as conflicting with GDPR's purpose limitation and data minimization principles.

It would be a welcome clarification to get explicit guidance confirming that long-term storage of personal data—limited to what is necessary and documented (e.g., via a *Data Protection Impact Assessment*)—for the explicit purpose of potentially developing future IRB models is a legitimate use case and does not conflict with GDPR.

Deposit Insurance Guarantee Directive

The requirement to provide a standardized depositor information leaflet to depositors on yearly basis should be reviewed. It should also be reviewed whether it is important to provide detailed information to depositors on the process of deposit guarantee pay-out administration or if such information should be provided by the supervisory authority at a default situation when there is a practical need for that information from depositors.

Data protection

It would be desirable for the legislator to clarify how institutions that are subject to mandatory rules from different regulators should relate to.

An example how the GDPR relate to the AML framework, i.e. to what extent the bank can rely on a legal obligation or not when the institution processes personal data to comply with AML framework.

As another example it would be desirable to clarify the relationship between security protection legislation and the GDPR, for example the possibility of ongoing background checks.

Banks are subject to several regulations under the supervision of the Financial Supervisory Authority. To comply with these requirements, banks need to process direct or indirect personal data to varying degrees. The GDPR requires that such processing has a legal basis under Article 6 GDPR.

Some regulations explicitly state that certain personal data processing must take place, which gives the bank a legal obligation under Article 6(1)(c). Other regulations are more generally formulated, where personal data processing is often necessary to meet the requirements. This creates uncertainty and reduces predictability in application (see the Data Protection Inquiry's Guidance and Article 29 Working Party Opinion 6/2014, WP 217, p. 20 f.).

An example of this is the requirement in the CRR/CRD to use historical data, including personal data, to predict default or loss given default. However, a broad application of personal data storage for potential use in future IRB models could be seen as conflicting with GDPR's purpose limitation and data minimization principles.

It would be a welcome clarification to get explicit guidance confirming that long-term storage of personal data (limited to what is necessary and documented via e.g. a *Data Protection Impact Assessment*) for the explicit purpose of potentially developing future IRB models is a legitimate use case and does not conflict with GDPR.

All in all, there is a need for greater clarity in regulations on how they relate to the GDPR, as well as a more risk-based approach in interpretations and applications of the GDPR.