

# LESS IS MORE



PROPOSALS TO SIMPLIFY AND IMPROVE  
EUROPEAN RULE-MAKING  
IN THE FINANCIAL SERVICES SECTOR

**REPORT BY AN EXPERT GROUP**

10 FEBRUARY 2025



[https://eqrco.de/a/Report\\_LessIsMore](https://eqrco.de/a/Report_LessIsMore)

## Contributing professors

### Prof. Blanche SOUSI

Jean Moulin Lyon 3 University

### Prof. Anne-Claire ROUAUD

Paris 1 Panthéon-Sorbonne University

### Prof. Pauline PAILLER

Paris Cité University

### Prof. Francesco MARTUCCI

Paris-Panthéon-Assas University

### Prof. Filippo ANNUNZIATA

Bocconi University, Milan

### Prof. Lucian BERCEA

West University of Timisoara, Romania

### Săraru CATALIN-SILVIU

Associate Professor, University of Economic Studies, Bucharest

### Prof. Pierre-Henri CONAC

University of Luxemburg

### Prof. Philipp DONATH

University of Labour, Frankfurt am Main

### Roberto FERRETTI

Adjunct Professor, Ca' Foscari University, Venice

### Prof. Dr. Matthias LEHMANN

University of Vienna

### Prof. Paola LUCANTONI

Università di Roma Tor Vergata

### Prof. Paolo Flavio MONDINI

Cattolica del Sacro Cuore University, Milan

### Cristina POPA TACHE

International Institute for Analysis of Legal and Administrative Mutations, Romania

### Prof. Marco VENTORUZZO

Bocconi University, Milan

## Leadership

### DELAHOUSSE Elisabeth

Head of European Affairs, Fédération Nationale de Crédit Agricole, founding member of the ESBFL/AEDBF and member of the Board of Directors of ESBFL/AEDBF France

## Other contributors

### ABBOU Jennifer

Legal counsel, Legal watch & Public affairs, Crédit Agricole Personal Finance & Mobility

### AKBAL Ismail

Regulatory Affairs Advisor, Österreichischer Genossenschaftsverband (ÖGV)

### BOUCARD François

Lawyer at the Conseil d'Etat and the Cour de cassation, Member of the Board of Directors of ESBFL/AEDBF France

### BOUMA Peter

Legal Expert, Legal Department, Rabobank

### BOURIN DION Catherine

General Manager at the Ministry of Justice, Anti-Money Laundering and Counter-Terrorism Financing Directorate, Luxembourg

### BRECHOT Yasmina

Lawyer, Banking Regulation Expert, Confédération Nationale du Crédit Mutuel

### de BROUWER Sébastien

Deputy Chief Executive Officer, European Banking Federation

### CARRIOU Dominique

Head of Regulatory Affairs, European Savings and Retail Banking Group

### CHAMPSAUR Amélie

Lawyer at the Paris Bar, Cleary Gottlieb

### CHEIKH Asmaa

Director, Banking and Financial Regulation, Legal Department, Société Générale Group

### CREMERS Thiebald

Doctor of law, Director of Legal Affairs, Association française des marchés financiers (AMAFI), France, member of the Board of Directors of ESBFL/AEDBF France

### DE MEULENEERE Inez

Chair of the Board of Directors of ESBFL/AEDBF Belgium, Member of the Board of Directors of the ESBFL/AEDBF

### DOMERACKA-SMOLNA Ewelina

Legal Counsel SOZ BPS, cooperator of National Association of Cooperative Banks (KZBS), Poland

### FOREST Jean-Baptiste

Lawyer at the Paris Bar

### FUNERED Urban

CEO, Swedish Securities Markets Association

### GEHLER Svetlana

Representative of the German Savings Banks Association (DSGV) for European banking supervisory authorities

### GILLEN Marie-Paule

Attorney at law, Partner in the Banking & Financial Services Practice of DSM Avocats à la Cour, Luxembourg, Chair of the Board of Directors of ESBFL/AEDBF Luxembourg, Member of the Board of Directors of the ESBFL/AEDBF

### GILLOUARD Marie

Head of Institutional Relations, Crédit Agricole Personal Finance and Mobility

### HASCOËT Pauline

Senior advisor sustainable finance and corporate governance, European Association of Cooperative Banks

### HEEGEMANN Volker

Head of Department, European Association of Cooperative Banks

### JOUFFIN Emmanuel

Head of SSI Repository and Regulatory Watch, Cyber Security Department, La Banque Postale Group

### JOVET Caroline

Legal Expert in Insurance Distribution, BNP Paribas Cardiff

### KACZMAREK Marcin

Head Specialist, IPS-SGB, cooperator of National Association of Cooperative Banks (KZBS), Poland

### KRAKOWIAK Michał

Management Consultant, National Association of Cooperative Banks (KZBS), Poland

### LACROIX Frederick

Member of the Paris Bar, Member of the Board of Directors of ESBFL/AEDBF France

### LIEGL Silvia

Managing Director of professional Association of Volksbanken, Head of Regulatory Affairs

### LOUIS Isabelle

Head of Regulatory Watch, Crédit Mutuel Alliance Fédérale

### MACOURS Kristof

Group Company Secretary Euroclear, Member of the Board of Directors of ESBFL/AEDBF Belgium

### MEYER Glenn

Attorney at law, Partner in Banking & Financial Services Practice of Arendt & Medernach, Luxembourg

### MOLDOVAN Cristina Helena

PhD candidate, West University of Timisoara, Romania / Paris 1 Panthéon-Sorbonne University

### NAVARRO GARCÍA, María Paz

Head of Regulatory, Interbank Services and Cooperation Projects, Confederación Española de Cajas de Ahorros

### NOGUEIRA Tiago

Attorney at law, Partner at Elvinger Hoss Prussen, Luxembourg

### PANETTA Gianpaolo

PhD Candidate, Università di Roma Tor Vergata

### PARTSCH Philippe-Emmanuel

Attorney at law, Partner in charge of the EU Financial & Competition Law Practice of Arendt & Medernach, Luxembourg

### PEDRIZZETTI Jérôme

Head of regulatory watch, Crédit Agricole SA Legal Department

### PERCIE du SERT Gonzague

Head of the Regulatory Watch Department, La Banque Postale Group

### QUELHAS Daniela

Financial Standards Expert, BNP Paribas, Lecturer in the Master 2 Business Law programme at Paris 1 Panthéon-Sorbonne University, Member of the Institut de recherche Juridique de la Sorbonne

### RADOMIŃSKI Łukasz

Head of the Credit Analysis Department, Bank Spółdzielczy w Brodnicy, Poland

### ROUSSEAU Elisabeth

Legal Expert Adviser in banking and financial regulations, Groupe BPCE

### SCACCHI Ines

Head of regulatory Affairs, European Savings and Retail Banking Group

### Dr. SCHMATZBERGER Thomas

Lawyer, Association of Austrian Raiffeisenbanks

### SORENSEN Dan

Managing Director, Nykredit bank

### STERZENBACH Michael H.

Secretary General, Bundesverband der Wertpapierfirmen, Federal Association of Investment Firms

### ȘUMANDEA-SIMIONESCU Ioan

Researcher, Babeș-Bolyai University of Cluj-Napoca, Romania

### TRESCHER Piotr

Legal Counsel, Head of the Legal Department IPS-SGB, National Association of Cooperative Banks (KZBS)

### WILK Michał

Director of the Aid and Restructuring Department SOZ BPS, National Association of Cooperative Banks (KZBS), Poland

## Executive Summary

*“It is necessary to take a step back and make sure that the complexity of cumulative layers of regulations in Europe does not constitute an obstacle to achieving our goals”<sup>1</sup>*

The European Union’s declining competitiveness, particularly in the financial sector, and the perceived disconnect between EU citizens and EU regulation, are increasingly mentioned in public debate. However, the root causes of these issues are rarely analysed.

Explanatory factors include the continuing inflation of Level 1 European regulation (directives and regulations), but also the proliferation of Level 2 texts (delegated and implementing acts, Regulatory Technical Standards (RTS) or Implementing Technical Standards (ITS) and Level 3 texts (soft law, for example: guidelines, guides, Q&A).

By way of example, the 1,000-page “banking package” published in spring 2024 conferred 140 mandates to the European Banking Authority (EBA) for drawing up technical standards or guidelines, whereas the previous “banking package”, from 2019, was 500 pages long and provided for 62 mandates.

Undoubtedly, new fields of activity have emerged (for example: digitalisation, sustainable finance) and crises have prompted the tightening of prudential regulations. These texts are, however, increasingly numerous and detailed, capital-intensive, bureaucratic and unstable. They are often adopted without real prior impact assessment.

Moreover, the ESAs, the Single Resolution Board, and the European Central Bank (ECB) are multiplying their own interventions, without specific mandates, in the form of soft law (recommendations, opinions, guidelines, guides, letters, Q&As, public statements, etc.), which often add new obligations to those set out in the directives and regulations.

Ultimately, **the body of European rules and standards in the financial sector is highly complex,**

**difficult to read, costly, and all too often lacking political or legal basis on technical but essential elements or effective control mechanism.**

**An *ad hoc* group of European law professors, lawyers and banking law experts has worked with contributions of associations,** including the European Society for Banking and Financial Law (ESBLF/AEDBF Europe) and the main European banking associations (European Banking Federation, “EBF”, European Association of Co-operative Banks, “EACB”, European Savings and Retail Banking Group, “ESBG”), supported by the European Banking Industry Committee (“EBIC”) and the European Forum of Securities Associations (“EFSA”).

**This work has resulted in the *Less is more* report, foreworded by Jacques de Larosière, which highlights the observed shifts of normative power from the EU’s co-legislators to the European Commission and even more so to the European Supervisory Authorities (ESAs), their causes and consequences, and proposes a range of solutions, a toolbox designed to simplify and improve the framework for the production of standards, to better distinguish regulation and supervision and strengthen the control of Level 2 and 3 acts.**

This report in no way advocates for the deregulation of the banking and financial sector nor deals with supervision issues.

The solutions envisaged include 4 axes, in essence:

**1/ Stabilising and simplifying the regulatory framework and renew the interinstitutional agreement on “Better Regulation”**

- Assessing and simplifying the existing regulatory framework;

- Limiting review clauses (also known as “rendez-vous” clauses), which are factors of legislative instability;
- Assessing the need to revise or add a Level 1 text with a standardized, controlled and more transparent impact assessment, taking real account of the competitiveness of the European financial services sector and, more broadly, the European economy;
- Introducing a new approach to consultation at Level 1, e.g. by involving stakeholders informally, at a very early stage, via meetings;
- Reviewing the system of expert groups;
- Limiting the number and scope of delegations granted to the Commission and of mandates granted to the ESAs.

## **2/ Strengthening consultation and transparency at Levels 2 and 3**

- Simplifying by eliminating technical standards and soft law that have become obsolete, ensuring consistency between the various texts;
- Systematizing impact assessments and improving their quality through standardising and monitoring;
- Strengthening the stakeholder consultation process by :
  - Amending the ESA founding regulations to ensure systematic consultation prior to the adoption of RTS / ITS ;
  - Guaranteeing the effectiveness of the consultation process, via an appropriate response deadline and an appropriate timetable, allowing open responses and more precise feedback.
- Publishing the composition of expert committees, the eligibility criteria, their mission and remuneration; reviewing the way stakeholder groups operate ;
- Facilitating access to the amendments proposed by the Commission on RTS and ITS;
- Establishing mechanisms to resolve timing conflicts, when Level 1 comes into effect while Level 2 is not ready.

## **3/ Reviewing the founding regulations of ESAs**

- Diversifying the governance of ESAs, according to their role and markets;
- Taking greater account of the competitiveness of the European financial services sector and, more broadly, of the European economy;
- Limiting the right to adopt recommendations and guidelines, which could only be adopted on the basis of a mandate provided in a Level 1 text;
- Clarifying the “comply or explain” process, and in particular :
  - Recalling that guidelines must respect the principles of proportionality and subsidiarity;

- Specifying that institutions, whether or not they are under ECB supervision, must make their best efforts to comply with the guidelines only when the NCA has declared its compliance; and furthermore, that they may achieve the objectives of the Level 1 act by adopting other practices, explaining, if necessary;

## **4/ Strengthening the control of Level 2 and 3 acts**

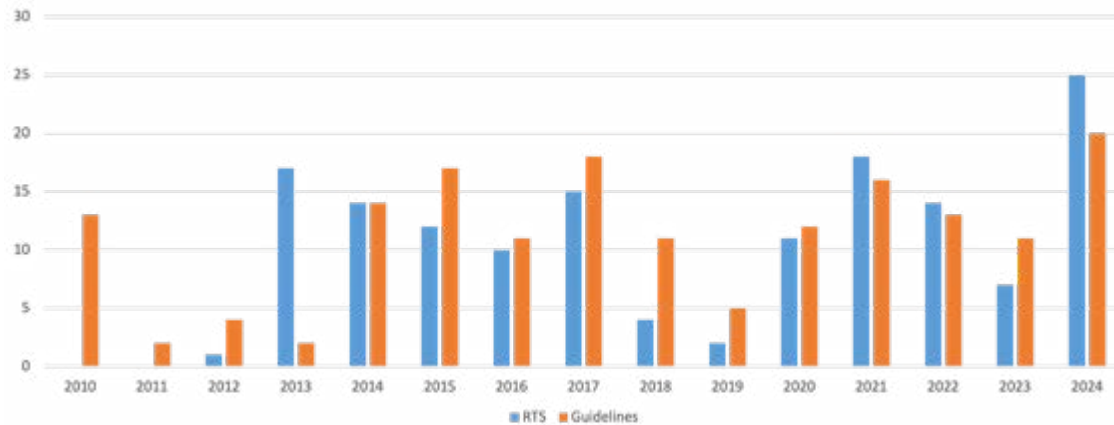
- Strengthening political control by the Commission, European Parliament and Council
  - Regarding Level 2 acts:
    - the Commission’s right of amendment;
    - the ability of the European Parliament and the Council to object, notably by allowing them to partially reject a technical standard adopted by the Commission.
  - Regarding Level 3 acts:
    - clarifying the reasoned opinion procedure in the event of the Authority’s excess of power, and making the conditions of admissibility more flexible, so that the competent authorities and institutions to which the guidelines are addressed are entitled to send reasoned advice to the Commission;
    - a review of the basis for the ECB’s supervisory requirements.
- Developing the possibility of pre-litigation appeals concerning Level 3 acts, by expanding the role of the ESAs’ Board of Appeal, reinforcing the guarantees of independence of the ECB’s Administrative Board of Review and expanding its role;
- Strengthening judicial review of Level 3 acts, in particular by ensuring compliance with the obligation to refer preliminary questions to the CJEU.

This work, which began more than two years ago in a momentum conducive to change, coincides with the conclusions of the Letta and Draghi reports, the objectives of the new Commission, and the reflections of Member States, MEPs, Central Banks and supervisors, all of which highlight the need for an overall assessment, simplification of the existing regulatory framework and its improvement for the future.<sup>1</sup>

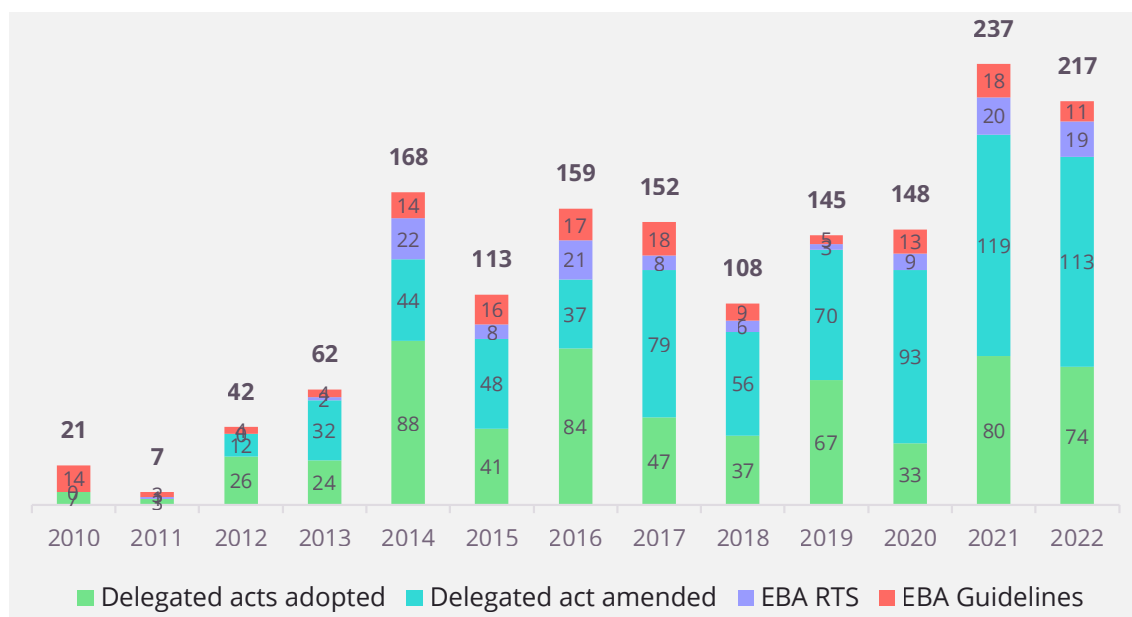
The priorities of the new European Commission, along with the post of Commissioner for Simplification and the presentation by the Commission of a report on the functioning of the ESAs, expected in 2025, are all opportunities to improve our normative framework at the service of European projects.

<sup>1</sup> Letter to Commissioner Maria Luis Albuquerque dated 17 January 2025 signed by the Governors of the Banco de Espana, Banca d’Italia, Banque de France and the President of the Deutsche Bundesbank

## PUBLICATION OF RTS AND GUIDELINES EBA PER YEAR



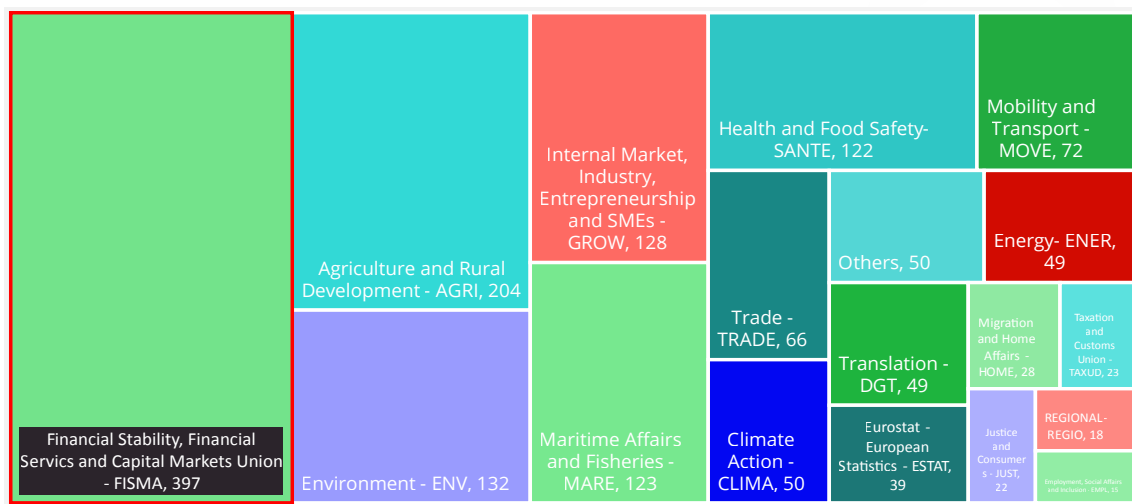
## LEVEL 2 AND 3 TEXT VOLUMES EVOLUTION



### +43% over the last 5 years (2017-2022)

With the volume of delegated acts growing significantly (83/year from 2021 to 2023) and the number of RTS doubled since 2020.

## BREAKDOWN OF DELEGATED ACTS BY THEME (As of end of September 2023)



**25% of delegated acts (397) concern financial stability and financial services**

## WITH THE SUPPORT OF EUROPEAN ASSOCIATIONS



Contact: [eulessismore@gmail.com](mailto:eulessismore@gmail.com)

