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Financial Markets: Regulatory Framework in the European Union

ABSTRACT

The European Union has established a comprehensive regulation system to ensure the harmonisation of financial markets across its member states, promoting stability, safeguarding deposits, investor and consumer protection, and ultimately economic growth. The rules created a unified and resilient financial environment and enhanced market efficiency, transparency, security and confidence. Within the financial markets, we focus on the banking sector, the investments and capital markets, the insurance sector, and finally, the payment services. The study encompasses the relevant European legislation, starting from the fundamental principles, and then summarises each sector's legal development, presenting the current regulatory system more prominently. Despite a trend toward standardised business practices, national features persist in financial markets, and challenges arise also from the simultaneous application of directives and regulations, leading to slight inconsistencies. Ongoing refinement of the EU's regulatory framework is crucial to address evolving financial challenges, ensuring market resilience and supporting the growth of the European financial system.

KEYWORDS: *financial law, financial markets, banking, capital market, insurance, European Union, harmonisation of law*

I. Introduction

From the point of view of the European financial markets, establishing the European Economic Community in 1957 and later the European Union was a significant economic event of the 20th century. During the period of the creation of the common market, the obligation of the member states only extended to the gradual release of capital movements that ensured the proper functioning of the common market (Article 67 of the EEC Treaty).[1] Thus, the question was raised at the outset in the case Regina v. Thompson whether gold and silver coins are means of payment or goods and, if a coin is a means of payment, whether it can be subject to the rules on the free movement of capital and the free movement of goods at the same time. The legal situation is different if a coin was only previously a means of payment but is no longer one when the facts occur.[2]
The general elimination of restrictions on capital movements between member states (independent of the common market concept) was first laid down by Directive 88/361/EEC.[3] Annex I contains the nomenclature, the thirteen types of capital movements, such as: direct, real estate and collective investments, capital and money market operations, operations in securities, current and deposit account operations, financial loans and credits, sureties, transfers related to insurance contracts, personal capital movements, physical import and export of financial assets.

I.1. The provisions of the TFEU

Later (1992/93), the Maastricht Treaty repealed the limited scope of Article 67 and followed the broader essential provision of the Directive 88/361. The Treaty on the Functioning of the European Union (TFEU) clearly defines that the Union – in also relation to financial markets – has exclusive competence in the establishment of the competition rules necessary for the operation of the internal market, as well as the monetary policy for the member states whose currency is the euro.[4] The competencies shared between the Union and the Member States apply in the following main areas: the internal market, economic, social and territorial cohesion, and (financial!) consumer protection. The member states coordinate their economic policies within the Union, but special provisions apply to the member states whose currency is the euro.

Article 26 states that the internal market is an area without internal borders, allowing the free movement of goods, persons, services, and capital. Among these for the financial markets, the most important are the freedom to provide services and, in this context, the issue of establishment, as well as the unrestricted flow of capital, but for financial professionals, the basis of employment in the EU is the free movement of persons, as well as the mutual recognition of higher and professional qualifications and diplomas.[5]
According to Article 56, all restrictions on the freedom to provide services within the Union are prohibited for citizens of Member States who are not established in the same Member State as the person using the service. In EU law, a service is usually provided against remuneration if it does not fall under the scope of the provisions on the free movement of goods, capital and persons. Article 58 emphasises that the liberalisation of banking and insurance services related to capital movements is implemented following the liberalisation of capital movements. Without prejudice to the provisions of the chapter on the right of establishment, the person providing the service may temporarily continue his activities in

[1] Blutman László: *Az Európai Unió joga a gyakorlatban*, 2014, HVG-ORAC, Budapest, p. 476.
[2] CC-7/78 Regina v Ernest George Thompson, Brian Albert Johnson and Colin Alex Norman Woodiwiss [1978] ECR 2247.
[3] Council Directive 88/361/EEC for the implementation of Article 67 of the Treaty
[4] Schütze, Robert: EU Competences: Existence and Excersie, in Chalmers, Damian – Arnull, Anthony: *The Oxford Handbook of European Union Law*, 2015, Oxford University Press, London, p. 75.
[5] For more details, see Directive 2005/36/EC on the recognition of professional qualifications. Also from ECJ case law C-11/77 Richard Hugh Patrick v Ministre des affaires culturelles [1977] ECR 1199; C-340/89 Irene Vlassopoulou v Ministry für Justiz, Bundes - und Europaangelegenheiten Baden-Württemberg [1991] ECR I-2357; C-55/94 Reinhard Gebhard v Consiglio dell'Ordine degli Avvocati e Procuratori di Milano [1995] ECR I-4165 or even in the case of language skills C-379/87 Anita Groener v Minister for Education and the City of Dublin Vocational Educational Committee [1989] ECR 3967.

the Member State where the service is provided under the conditions applicable to its citizens.[6] The European Court of Justice ruled in the case of insurance services that the rules of the right of establishment apply if a company providing services has a permanent office in the territory of another EU member state in which its employee or agent operates.[7]

Within the framework of Article 63, all restrictions on capital movements and payment operations between Member States and between Member States and third countries are prohibited.[8] Although the free flow of capital was ensured in this way, problems arose in practice, primarily due to currency restrictions.[9] In 1995, in the *Bordessa case*, the European Court ruled that citizens can take banknotes, coins and checks abroad without prior permission.[10] Accordingly, the provisions introduced by the Maastricht Treaty, which are essentially the same as the provisions of the Directive, were also considered to have a direct effect, as they contain a clear and unconditional obligation (this also applies to capital movements related to third countries). This direct effect also applies in legal disputes between private parties and has a horizontal character.[11] In the capital market, it is also prohibited to limit investments or discriminate against foreign investors,[12] even on the basis of tax law or tax credit considerations[13] or in the case of real estate investments.[14] For example, unique shares ("golden shares") in certain economic companies, which grant special rights to the state, may conflict with EU law. In the *Trummer case,*[15] the Court found that national regulations that require the registration of a mortgage to secure a claim payable in the currency of another member state in the national currency are incompatible with the Treaty.[16]

The prohibition of TFEU Article 63 is not absolute. Member states retain the right to enact necessary measures to prevent violations of national laws, especially in taxation and financial oversight. They can also establish procedures for reporting capital movements and take measures for public order or safety. In extraordinary circumstances, if capital movement to or from third countries poses severe difficulties for the Economic and Monetary Union, the Council, with Commission and European Central Bank consultation, may implement protective measures for up to six months if necessary. However, free capital movement does not automatically grant freedom of establishment for financial organisations, as member states can still apply restrictions compatible with the Treaties.

[6] Senjic, Dasa Panjakovic: *Free movement of capital in the European Union*. Economic and Social Development: Book of Proceedings (2023): 43-47. and Schön, Wolfgang: Free Movement of Capital and Freedom of Establishment, in *European Business Organization Law Review*, Vol. 17. No. 3. 2016. pp. 229-260.
[7] C-205/84 Commission v Germany (Insurance Services) [1986] ECR 3755.
[8] Cf. Moțatu, Adriana: Free movement of capital and payments in the European Union, the result of succession regulations, in Strada-Rozenberga, Kristine – Anjos, Maria do Rosário (ed.): *Current Issues in Business Law*, 2018, Societatea de Stiinte Juridical ski Administrative, Bucharest, 85-92.
[9] See also case Sanz de Lera, (C-163/94, C-165/94), and C-250/94 Lucas Emilio Sanz de Lera, Raimundo Dìaz Jiménez and Figen Kapanoglu [1995] ECR I-4821).
[10] C-358 /93 and C-416/93 Aldo Bordessa, Vicente Mari Mellado and Concepcio Maestre [1995] ECR I-0361, para 35.
[11] C-464/98 Westdeutsche Landesbank Girozentrale v Friedrich Stefan [2001] ECR I-00173.
[12] C-174/04 Commission v Italy (Energy Shares) [2005] ECR I-4933.
[13] C-292/04 Wienand Meilicke, Heidi Christa Weyde and Marina Stöffler v Finanzamt Bonn- Innenstadt [2007] ECR I-1835 para 31 or C-315/02 Anneliese Lenz v Finanzlandesdirektion für Tirol [2004] ECR I-706.
[14] C-300/01 Doris Salzmann [2003] ECR I-4899, or C-452/01 Margarethe Ospelt and Schlössle Weissenberg Familienstiftung [2003] ECR I-9743.; For more details, see Blutman, 2014, pp. 477-478.
[15] C-282/04 and C-283/04 Commission v Netherlands (Dutch gold shares case) [2006] ECR I-9141.
[16] C-222/97 Manfred Trummer v Peter Mayer [1999] ECR I-01661.

The system of exceptions related to the free movement of capital

		Special exceptions to the Treaty	General exceptions to the Treaty
Free flow of capital	TFEU Article	Restrictions on third countries TFEU Article 64 (1)	Property order TFEU Article 345
		Taxation TFEU Article 65 (l) (a)	National security TFEU Article 346
		Prudential measures TFEU Article 65 (l) (b)	Protection TFEU Article 346
		Public order and public safety TFEU Article 65 (l) (b)	Financial penalties TFEU Articles 75 and 215
Right of establishment TFEU Article 49-55.			General interest - CJEU case law

Source: own compilation based on TFEU and Kiefer, Alonso Betina: Legal basis for the free movement of capital. European Commission Case Law Guide of the European Court of Justice on articles 63 et seq. TFEU. 2017.

Regarding restrictions, member states can introduce measures – especially in the field of taxation and prudential supervision of financial organisations – to prevent violations of legislation, and they can require the reporting of capital movements for administrative or statistical purposes - as long as these do not serve as a means of arbitrary discrimination or hidden restrictions. However, prior authorisation is not allowed, for example,[17] and the reference to public policy or public safety must also be thorough.[18] A significant part of capital movements, as financial services, are closely connected with the freedom to provide services, and it is often difficult to separate the two areas. There are, for example, points of overlap between certain parts of the harmonisation of company law and tax law and capital movements, such as the Directive 2004/25/EC on public takeover bids or the amended Directive 69/335/EEC on indirect taxes on the raising of capital. In the case of the latter, the Court specifically stated that the harmonised regulation was created to facilitate the free movement of capital.[19] Harmonisation areas related to financial and investment services and their background can also be considered points of contact for the freedom of capital movement.[20]

To achieve the objectives of the common economic policy and uphold the principles of freedom, security, and the rule of law, legislative decrees are enacted through the ordinary legislative procedure of the European Parliament and the Council. These decrees establish the framework for administrative measures related to capital movements and payment operations, including freezing funds, financial assets, and economic income of individuals, groups, or entities, as outlined in TFEU Article 75. Additionally, to promote fair competition and align with the prohibition of privileged access (TFEU Article 124), any measure granting privileged access to financial organisations without a prudential basis is restricted.

The Economic and Financial Committee monitors and formulates recommendations on economic and financial matters to effectively coordinate member states' economic policies within the internal market. It regularly reports to the Council and the Commission, addressing the financial relations with third countries and international institutions. The committee annually examines measures

[17] C-515/99, C-519-524/99 and C-526-540/99 Hans Reisch and Others [2002] ECR I-2157.

[18] C- 319/02 Petri Manninen [2004] ECR I-7477, paragraph 29; C-242/03 Ministre des Finances v Jean-Claude Weidert and Élisabeth Paulus [2004] ECR I-7379, paragraph 28 or C-315/02 Anneliese Lenz v Finanzlandesdirektion für Tirol [2004] ECR I-7063, paragraph 49.

[19] 112/86 Amro Aandel Fonds v Inspector der Registratie en Successie [1987] ECR 4453, para 7.

[20] Regulation (EU) 2021/1230 on cross-border payments in the Union, Directive 2014/65/EU on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU; Directive (EU) 2016/1034 amending Directive 2014/65/EU on markets in financial instruments; Directive 2001/34/EC on the admission of securities to official stock exchange listing and on information to be published on those securities; Directive 2013/36/EU on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC; Regulation (EU) No 596/2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC, Directives 2003/124/EC, 2003/125/EC and 2004/72/EC

related to capital movements and payment operations, ensuring compliance with the Treaties and Council-adopted measures.

I.2. Monetary and development issues related to financial markets

Concerning the financial markets, the European System of Central Banks (ESCB) basic tasks include the promotion of the smooth operation of payment systems, and it also supports the competent authorities in the smooth implementation of their policies on the prudential supervision of credit institutions and the stability of the financial system. After consultation, the Council – in unanimously adopted regulations – may entrust the European Central Bank (ECB) with specific tasks about the policies on the prudential supervision of credit institutions and other financial organisations (except insurance companies).

Regarding the two-level banking system, particularly in eurozone countries, it's important to highlight key rules stemming from the Economic and Monetary Union (EMU). The EMU separated jurisdiction over monetary policy (euro area) from national supervisory policy, resulting in significant changes to the institutional systems of EU member states. In the euro area, national central banks operate autonomously, undertaking Eurosystem tasks at their own expense and risk. They execute monetary policy operations, provide central bank money to credit institutions, and facilitate domestic and cross-border cashless payments. National central banks may also engage in foreign exchange reserve management. Credit institutions can be direct contractual partners (*counterparties*) with the ECB.[21]
In collaboration with national central banks, the ECB may provide tools and regulations to ensure efficient clearing and payment systems within the Union and beyond. Additionally, the ECB advises the Council, the Commission, or Member State authorities on EU legislation related to prudential supervision of credit institutions and financial system stability. The cooperation with European supervisory authorities is integral, and since November 2014, the ECB has assumed specific tasks delegated by the single supervisory mechanism.[22] These tasks encompass licensing credit institutions, ensuring compliance with prudential and regulatory requirements, and supervisory review. The ECB directly supervises major banks, while national authorities oversee less significant institutions. Alongside microprudential tasks, the ECB also performs macroprudential duties, including managing capital buffers.

The TFEU names an EU-level, specialised credit institution separately, the European Investment Bank (EIB), which contributes to the balanced and even development of the internal market in the interest of the Union by using the capital market and its own resources.[23] Therefore, it operates without the aim of making a profit and provides loans and guarantees that facilitate financing the following projects: development of less developed regions; modernisation, transformation of businesses or creation of new activities; and common interest of several member states.[24] In carrying out its task, the EIB facilitates financing investment programs in connection with the grants received from structural funds and other EU financial instruments.

I.3. EU legislation of financial markets

EU legislation on financial markets primarily relies on secondary legal sources, specifically EU legal acts and national legislative outcomes. Institutions exercise union powers by adopting regulations, directives, decisions, recommendations, and opinions. Regulations are fully binding and directly

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[21] Trichet, Jean-Claude: *European Central Bank* - Euro system - European System of Central Banks, 2009, ECB, p. 16. and Dikau, Simon, and Ulrich Volz: Central bank mandates, sustainability objectives and the promotion of green finance. *Ecological Economics* 184 (2021): 107022.
[22] Council Regulation (EU) No 1024/2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions
[23] See in detail: Halász Zsolt: The European Investment Bank - An EU Institution Facing Challenges and Providing Real European Added Value, in *Hungarian Yearbook of International Law and European Law*, Vol 7. (2019), pp. 327-345.
[24] Mertens, Daniel – Thiemann, Matthias: Building a hidden investment State? The European Investment Bank, national development banks and European economy governance, in *Journal of European Public Policy*, Vol. 26. No. 1. (2019), pp. 23-43.

applicable across all member states, containing detailed and prescriptive provisions. Directives are binding on recipient member states regarding goals, allowing flexibility in the choice of form and means by national authorities to align with their legal systems. They have a stronger connection with national law and are less prescriptive than regulations. Despite a uniform trend in everyday business practice, financial markets' national and traditional characteristics remain strong. Challenges arise due to the simultaneous application of directives and regulations on the same topic (e.g., CRR and CRD for capital requirements, MiFIR and MiFID II for financial instruments markets, and Solvency II regulation and directive for insurance).

As an argument in favour of double legislation, the regulations establish detailed and highly prescriptive provisions for all EU member states, which form a single rulebook and cannot be deviated from (see capital, capital requirements). On the other hand, it follows from the framework nature of the directives that it is less prescriptive at the EU level, so the relationship with national law is more substantial, and domestic regulation can be better adapted to local conditions (see capital buffers, supervisory tools, sanctions). Unfortunately, this dual regulation is inconsistent because sometimes the directives set more (or less) requirements, and sometimes, the scope of regulation is transferred from one to the other. A further problem is that EU legislation has to be "read" together with national rules, as some EU provisions are not included in national legislation, in particular in the case of regulations, because of their direct applicability and binding force; thus, more care has to be taken to ensure that some of them do not escape the attention of the legislator(s) and law enforcers(s).

An essential part of financial regulation is the European System of Financial Supervision, the network organised around the three European supervisory authorities, the European Systemic Risk Board and the national supervisions.[25] Its primary purpose is to ensure that the rules applicable to the financial sector are appropriately implemented in all member states in order to preserve financial stability, promote trust and protect consumers, and this also includes the creation of a common supervisory culture and the stimulation of a uniformly functioning European financial market.[26] The European Central Bank, as part of the European banking supervisory body, cooperates closely with the European supervisory authorities.

II. Banking sector

In the case of the financial market, the regulation of the banking sector is the most mature. The first banking directive was the Council Directive 77/780/EEC, which was about the harmonisation of legal, regulatory and administrative provisions on the commencement and continuation of the activities of credit institutions. Then, in 1989, two directives were adopted: Council Directive 89/647/EEC on the solvency ratio of credit institutions (solvency directive) and Council Directive 89/299/EEC on the own funds of credit institutions.

II.1. Implementation of the Basel Accords: CRR, CRD

EU legislation heavily incorporates Basel Accords (Basel I-IV) from the Basel Committee on Banking Supervision (BCBS). Established in 1974, the BCBS aims to ensure banks' solvency, promote common standards, and prevent foreign banks from evading national supervision.[27] Basel I (1988) was soon incorporated into the legal system of all G10 countries in 1992, and later, more than 100 other states, which set minimum capital requirements adopted globally and introduced the capital adequacy ratio (8 % of the risk-weighted assets) and the capital structure with different tiers and components. Basel II (2004) focused on financial stability with three pillars: Minimum capital requirements, Supervisory control process, and Market disclosure. Basel III responded to the 2008 financial crisis; it

[25] Kálmán János: Az integráció nevében – Az Európai Unió pénzügyi felügyeleti rendszerének reformja, in *South-East Europe: International Relations Quarterly*, Vol. 5. No. 2. (2014), pp. 1-20.,
[26] Kolovou, Evaggelia – Gikas, Grigorios – Kyritsis, Kostantinos: The Economic Crisis of 2008 and the Financial System Supervision: Towards an European Banking Union, in *Central European Review of Economics & Finance*, Vol. 24. No. 2. (2018).
[27] http://www.bis.org/speeches/sp121115.pdf (15.11.2023).

extended Basel II with macroprudential elements to be fully implemented by 2019/2020 (some elements by 2022).[28] The EU implemented Basel III through the Capital Requirements Regulation (CRR) and the Capital Requirements Directive (CRD IV); the regulation primarily establishes the prudential requirements to be observed by financial institutions, while the directive regulates access to deposit collection activities.[29] The CRR ensures banks control risks and maintain adequate capital, adhering to global standards (Basel III). Key features include higher capital requirements, liquidity measures, and limits on the leverage effect. In this way, it is possible to make banks more stable and increase their resilience during economic difficulties. Its unique points include: higher and better capital requirements; liquidity measures (liquidity buffers, liquidity coverage ratio, minimum net stable funding requirements), and limiting the leverage effect (capital leverage ratio).

The CRD replaced and amended earlier directives (2002/87/EC, 2006/48/EC and 2006/49/EC), regulates deposit collection activities conditions for banking activities, and introduced new factors like performance rewards and enhanced transparency. In addition to these, the directives cover several new factors: performance rewards for staff (bonuses), better and more adequate management, increased transparency, and requiring additional capital for banks (capital buffers). Furthermore, it reduces the possibility of financial companies relying on external credit ratings, requiring, for example, that banks base their investment decisions not only on ratings but also on their internal credit assessment opinions.

Table 1
The main contents of the CRR and CRD

CRR	CRD
• Capital, capital structure, solvency capital • Capital requirement: credit risk, operational risk, market risk • Solvency – liquidity measures (liquidity buffers, liquidity coverage ratio, net stable funding requirement) • Leverage limits (leverage ratio) • Large exposures (risks) • Disclosure	• Commencement/continuation of business activity • Freedom of establishment and free flow of services • Prudential supervision • Capital buffers • Corporate governance • Sanctions

Source: own compilation

In addition to the capital requirements, the directive on consumer credit agreements harmonises the EU rules on loans granted to consumers for financing goods and services (holidays, goods, new cars, etc.).[30] Before entering into a contract, the creditor must promptly provide clear and standardised information about key loan features. The creditor is also required to assess the consumer's creditworthiness before contract signing. The consumer must be informed of the database search results and relevant characteristics if the loan application is rejected. Consumers retain at least 14 days to withdraw from the agreement without providing reasons. Additionally, they have the right to repay the loan before the due date, subject to fair and objectively justified compensation received by the creditor. Regulation 2016/1011 amended Directive 2008/48/EC and required the creditor, in the period prior to the conclusion of consumer credit agreements, to inform the consumer of the name of the benchmark

[28] Alvi, F. H., & Williamson, P. J. (2023). Responses to global financial standards in emerging markets: Regulatory neoliberalism and the Basel II Capital Accord. *International Journal of Finance & Economics*, 28(3), 2635-2650. and
McNamara, Christian M., Michael Wedow, and Andrew Metrick: Basel III B: Basel III Overview. *Journal of Financial Crises* 1.4 (2019): 59-69.
[29] Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms and amending Regulation
Directive 2013/36/EU on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC
[30] Directive 2008/48/EC on credit agreements for consumers and repealing Council Directive 87/102/EEC

and its manager and the possible consequences for the consumer if the credit agreement refers to a benchmark.[31] Directive 2014/17/EU establishes special rules for consumer credit agreements and mortgages related to residential real estate, defining basic business principles and the content of the uniform European data sheet (EEA) required for information.[32]

II.2. European Banking Union

The idea of establishing the European Banking Union (EBU) emerged after the 2008 crisis. It has three pillars: (i) the single supervisory mechanism, (ii) the single resolution mechanism and (iii) the European deposit insurance system. The Banking Union is an essential milestone on the way to a genuine EMU; it aims to increase the European banking system

- *transparency*: the consistent application of common banking supervision, recovery and resolution rules and administrative standards;
- *uniformity*: the equal treatment of banking activity within and across national borders, and by eliminating the link between the financial position of banks and the country in which they operate;
- *safety*: the early management of problems arising at banks (to prevent them from going bankrupt) and, if necessary, through their effective resolution.[33]

Table 2
The structure of the European Banking Union

European Banking Union		
Single Supervisory Mechanism (SSM)	Single Resolution Mechanism (SRM)	European Deposit Insurance System (EDIS)
• supervise that credit institutions comply with prudential requirements; • reveal deficiencies at an early stage; • ensure that these deficiencies are remedied so that they do not become a risk to overall financial stability; • European System of Financial Supervision (ESFS).	• EU-level resolution authority: Single Resolution Board, SRB; • common resolution fund financed by the banking sector (Single Resolution Fund, SRF).	• provide depositors with a higher level of protection (Deposit Guarantee Scheme).
Single Rulebook		
• capital requirements for banks CRD IV and CRR • deposit insurance directive, directive on Deposit Guarantee Schemes (DGS) • the prevention of bankruptcy situations and the management of bankrupt banks, Bank Recovery and Resolution Directive (BRRD)		

Source: own compilation

The Single Supervisory Mechanism (SSM) and Single Resolution Mechanism (SRM) constitute a new European banking and financial oversight system involving the ECB, EU authorities, and national banking supervisors. The SRM aims to efficiently address bank failures with minimal taxpayer and

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[31] Regulation (EU) 2016/1011 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014

[32] Directive 2014/17/EU on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010
Comparato, Guido: The design of consumer and mortgage credit law in the European system, in Micklitz, Hans-W. – Domurath, Irina: *Consumer debt and social exclusion in Europe*, 2016, Routledge, pp. 23-40.

[33] See more details Epstein, Rachel A., and Martin Rhodes: The political dynamics behind Europe's new banking union. *The Politics of Supranational Banking Supervision in Europe*. Routledge, 2019. 1-23.

economic impact, facilitated by the swift decision-making of the unified resolution council.[34] The ECB plays a crucial role in assessing a bank's likelihood of failure, and resolution costs are covered by the unified resolution fund contributed by banks. The Bank Recovery and Resolution Directive, BRRD,[35] defines the framework through which the EU member states transpose the main features outlined by the Financial Stability Board (FSB).[36] The European Deposit Insurance System (EDIS) harmonises deposit protection across the EU, ensuring consistent compensation for frozen deposits through Directive 2014/49/EU (DGSD).[37] The minimum compensation is €100,000 or £85,000, with some member states having no upper limit due to national discretion (e.g. Austria, Denmark, Ireland, Germany or Slovakia).[38] The single rulebook establishes legal and administrative standards for regulating and supervising the EU financial sector. It covers capital requirements, recovery and resolution procedures, and harmonised national deposit guarantee schemes.

In line with Basel IV recommendations, the BCBS revised regulations in various areas, publishing "Basel III: finalizing post-crisis reforms" in 2017.[39] The definitive upgrade included elements such as managing sovereign risks and calibrating specific aspects. These reforms, often referred to as Basel III, are regarded as only the finalisation of a package of reforms following the global economic crisis, with a deadline of 2022, with adjustments to the initially planned market risk capital calculation.[40] After more than two years of in-depth discussions and considerations, the EU's "Banking Package" was concluded in 2019 and 2021,[41] which set an agenda to 2024 (or 2027). The implementation involves substantial modifications to the Capital Requirements Regulation (CRR II, general application from 2021), the Capital Requirements Directive (CRD V), the Bank Recovery and Resolution Directive (BRRD II), and the Single Resolution Mechanism (SRMR II), is anticipated to be a significant and challenging undertaking.[42] The CRR II and the CRDV focus on enhancing liquidity standards, ensuring

[34] Busch, Danny, Mirik BJ Van Rijn, and Marije Louisse: How single is the single resolution mechanism?. *European Business Law Review* 30.4 (2019) and Kern, Alexander: European Banking Union: a legal and institutional analysis of the Single Supervisory Mechanism and the Single Resolution Mechanism, in *European Law Review*, Vol. 40. No. 2. (2015), pp. 154-187.

[35] Directive 2014/59/EU on the establishment of a framework for the recovery and resolution of credit institutions and investment companies and Council Directive 82/891/EEC, 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC Directives 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and on the amendment of European Parliament and Council Regulation 1093/2010/EU and 648/2012/EU.

[36] The Financial Stability Board (FSB, Financial Stability Board) is an international body that monitors and makes recommendations regarding the global financial system. It was created by the G20 countries in 2009 after the London summit, as a successor to the Financial Stability Forum (FSF). The board includes the G20 and the European Commission. Operated and funded by the BIS, the Board of Directors is based in Basel, Switzerland. It should not be confused with Act CXXXIX of 2013 on the Hungarian National Bank with the Financial Stability Council of the MNB established pursuant to law.

[37] Howarth, David, and Lucia Quaglia: The difficult construction of a European Deposit Insurance Scheme: a step too far in Banking Union?. *The Difficult Construction of European Banking Union*. Routledge, 2020. 188-207. Directive 2014/49/EU on deposit guarantee schemes

[38] Schich, Sebastian: Financial Crisis: Deposit Insurance and Related Financial Safety Net Aspects, in *Financial Market Trends*, Vol. 2/2/2008 (December).

[39] BCBS: Basel III: Finalizing post- crisis reforms, 2017, BCBS

[40] Zaevski, Tsvetelin S., and Dragomir C. Nedeltchev: From Basel III to Basel IV and beyond: Expected shortfall and expectile risk measures. *International Review of Financial Analysis* 87 (2023): 102645.

[41] European Commission: Banking package 2021 (https://finance.ec.europa.eu/publications/banking-package_en) (09.11.2023) and European Commission: Banking Package 2021: new EU rules to strengthen banks' resilience and better prepare for the future (https://ec.europa.eu/commission/presscorner/detail/en/ip_21_5401) (09.11.2023)

[42] CRR II: Regulation (EU) 2019/876 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012

CRD V: Directive (EU) 2019/878 amending Directive 2013/36/EU as regards exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures

BRRD II: Directive (EU) 2019/879 amending Directive 2014/59/EU as regards the loss-absorbing and recapitalisation capacity of credit institutions and investment firms and Directive 98/26/EC

that banks have sufficient readily available funds to meet their obligations.[43] Fundamental changes include the expanded Liquidity Coverage Ratio (LCR), which measures the amount of high-quality liquid assets (HQLA) held by banks to meet short-term liquidity needs and is extended to cover additional types of liabilities. It strengthened the Net Stable Funding Ratio (NSFR), which ensures that banks match their stable funding with their stable assets refined to address potential vulnerabilities. Furthermore, with a comprehensive reporting requirement, banks must provide more granular information on their liquidity positions, enabling regulators to monitor better and assess their resilience. SRMR II relates to the implementation of the Total Loss-Absorbing Capacity (TLAC) standard in EU law, which needs to take into account the existing institution-specific minimum requirement for own funds and eligible liabilities (MREL) that applies to all credit institutions and investment firms established in EU as well as to any other entity as laid down in BRRD.[44]

III. Investments and the capital market

Investment and capital market integration began in 1960 with the initial Capital Markets Directive, implementing Article 67 of the Treaty. This directive lifted various restrictions on commercial and private capital movement, including those related to real estate purchases, short- and medium-term lending, and the acquisition of listed securities. Some Member States, such as Germany, the United Kingdom, and the BeNeLux states, went further by unilaterally removing all restrictions on capital movements. Subsequent directives, such as Council Directive 72/156/EEC and Council Directive 88/361/EEC, further regulated international capital flows and eliminated restrictions on capital movements between member states by 1990.

III.1. MiFIR - MiFID

The Markets in Financial Instruments Directive (MiFID I), governing investment services and regulated markets, was in effect until 2018.[45] It aimed to protect investors, ensure market integrity, and harmonise requirements for authorised intermediaries. MiFID II, the current directive, continues these objectives, enhancing market reliability and transparency while establishing a new legal framework for regulating financial market trading activities and bolstering investor protection.[46] It introduced the Organised Trading Facility (OTF) terminology to detect unregulated trades alongside existing trading platforms. The directive addresses electronic trading by controlling high-speed transactions.[47] To reinforce investor protection, investment firms under MiFID II must ensure that staff remuneration or performance evaluation aligns with client interests. MiFID II is closely linked to the Markets in Financial Instruments Regulation (MiFIR),[48] which seeks to enhance market transparency, efficiency, and investor

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SRMR II: Regulation (EU) 2019/877 amending Regulation (EU) No 806/2014 as regards the loss-absorbing and recapitalisation capacity of credit institutions and investment firms

[43] Pricewaterhouse Coopers: *CRD V and CRR II Finalising Basel III and setting the stage for Basel IV*, 2021. and Pricewaterhouse Coopers: *Stand out for the right reasons* - Financial Services Risk and Regulation: Time to prepare for finalised CRR 2 and CRD 5, 2019

[44] Smoleńska, Agnieszka: Multilevel cooperation in the EU resolution of cross-border bank groups: lessons from the non-euro area Member States joining the Single Resolution Mechanism (SRM). *Journal of Banking Regulation* 23.1 (2022): 42-53.

[45] Directive 2004/39/EC on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC repealing Council Directive 93/22/EEC

[46] Directive 2014/65/EU on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU

Directive (EU) 2016/1034 amending Directive 2014/65/EU on markets in financial instruments

[47] Sadaf, Rabeea, et al.: *Algorithmic trading, high-frequency trading: implications for MiFID II and market abuse regulation (MAR) in the EU*. High-frequency Trading: Implications for MiFID II and Market Abuse Regulation (MAR) in the EU (2021). and Karremans, Johannes, and Magnus G. Schoeller: *Accountability mechanisms in the governance of high-frequency trading under MiFID II*. Regulating Finance in Europe: Policy Effects and Political Accountability (2021): 16.

[48] See Regulation 600/2014/EU on financial instrument markets and amending Regulation 648/2012/EU, as well as Regulation (EU) 2016/1033 amending Regulation 600/2014/EU on financial instrument markets, Regulation

protection. The regulation applies broadly to entities such as investment firms, banks, insurance companies, alternative investment funds, and non-EU companies authorised by the European Commission. Transaction rules mandate the retention of relevant data for five years, and trading venues must retain all data on advertised financial instruments.

Table 3
The main contents of the MiFIR and MiFID

MiFIR	MiFID II
• Disclosure of trade data; • Reporting transactions to the relevant authorities; • Trading in derivative financial products on organised venues; • Non-discriminatory access to clearing and benchmark trading; • Powers for national authorities, the European Securities and Markets Authority and the European Banking Authority (supervision of products and positions); • Investment services and activities by non-EU companies;	• Ensuring that financial products are traded in regulated venues; • Increased transparency; • Restriction of commodity market speculation; • Adjustment of rules for new technologies (high-speed trading); • Strengthening investor protection;

Source: own compilation

EMIR (European Market Infrastructure Regulation) covers over-the-counter (OTC) derivative transactions, central counterparties, and trading databases.[49] To enhance OTC derivative market transparency, the regulation mandates reporting all European derivative transactions to trading databases accessible by supervisory authorities, including the European Securities and Markets Authority. To mitigate counterparty credit risk, EMIR imposes stringent organisational, business management, and prudential obligations on central counterparties, necessitating the involvement of central counterparties in standard derivative transactions for risk reduction. The regulation also requires timely confirmation of over-the-counter derivative transaction terms through electronic means to minimise operational risk.[50] Clearing and reporting obligations apply to both financial firms (e.g., banks and insurance companies) and non-financial firms (e.g., energy companies and airlines with significant OTC derivatives holdings).[51] Additionally, Regulation 2016/1178/EU introduces further rules on the categories, counterparties, and effective date of the settlement obligation.[52]

III.2. Investment and investment funds

Regarding investment and investment funds, the Directive 2009/65/EC harmonises the national legal, regulatory and administrative provisions for Undertakings for the Collective Investment in

596/2014/EU on market abuse and Regulation 909/2014/EU on improving securities settlement within the European Union and on central securities depositories.
[49] Regulation 648/2012/EU on OTC derivative transactions, central counterparties and trade repositories.
[50] Partner credit risk: the risk of default arising from the partner involved in the transaction, i.e. the other party participating in the financial transaction.
Operational risk: the risk of loss arising from inappropriate or neglected internal processes, or from external events such as fraud, human error, or terrorism.
[51] Buchacher, Gerhard, and Timo Sommerhage: EMIR & SFTR–European Market Infrastructure Regulation: Regulierungen des Over-the-Counter-Marktes: European Market Infrastructure Regulation & Securities Financing Transactions Regulation. *Meldewesen für Finanzinstitute: Ein Handbuch für PraktikerInnen*. Wiesbaden: Springer Fachmedien Wiesbaden, 2022. 471-508.
[52] Regulation (EU) 2016/1178 supplementing Regulation 648/2012/EU with regard to regulatory technical standards regarding the settlement obligation.

Transferable Securities (UCITS).[53] This category of investment funds accounts for about 75% of all collective investments of European retail investors.[54] Directive 2011/61/EU creates rules for the managers of alternative investment funds, including hedge funds and private equity investment funds (Alternative Investment Fund Managers, AIFM) authorisation and supervision legal framework.[55] In connection with this, there are three additional EU alternative financial funds: the European Venture Capital Fund, the European Social Entrepreneurship Fund, and the European Long-term Investment Fund.[56]

Table 4
Specialised Funds in the EU

EuVECA	**EuSEF _**	**ELTIF**
European Venture Capital Fund	*European Social Entrepreneurship Fund*	*European Long-term Investment Fund*
Regulation 345/2013	Regulation 346/2013	Regulation 2015/760
• financing for start-up and early-stage companies • More diversified investment strategies, riskier sectors: IT, biotechnology, healthcare	• financing for social enterprises • Companies explicitly created to achieve positive social impact and goals	• Unlisted companies • Debt instruments where the buyer is not easily identifiable • Investment-demanding real assets • Financing of SMEs

Source: own compilation

Regulation 1286/2014/EU obliges manufacturers or sellers of investment products to make available in connection with the packaged retail and insurance-based investment products (PRIIPs) the so-called key information documents (KID) for retail investors.[57] Regulation 2017/1131 establishes rules valid throughout the Union in order to make Money Market Funds (MMF) more resilient and better able to withstand market shocks. It achieves this by ensuring uniform rules on prudential requirements, governance and transparency of managers of mutual funds.[58] The law applies to all EU MMFs managed and/or distributed. There are three types of money market funds: (i) variable net asset value, mainly dependent on market fluctuations; (ii) fixed net asset value investing in government securities, which seeks to maintain a fixed price for each unit; (iii) low volatility net asset value – a new category introduced as a viable alternative to fixed net asset value MMFs. The regulation prevents MMFs from receiving financial assistance from other institutions, namely banks.

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[53] Directive 2009/65/EC on the harmonization of legal, regulatory and administrative provisions relating to collective investment undertakings dealing in transferable securities (UCITS).

[54] Tjio, Hans, and Ying Hu: Collective investment: land, crypto and coin schemes: regulatory 'property'. *European Business Organization Law Review* 21 (2020): 171-198. and Alshaleel, Mohammed Khair: Undertakings for the Collective Investment in Transferable Securities Directive V: Increased Protection for Investors, in *European Company Law*, Vol. 13. Issue 1. (2016): 4.

[55] Directive 2011/61/EU on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 Text with EEA relevance
Ferran, Eilis: After the crisis: the regulation of hedges funds and private equity in the EU, in European Business Organization Law Review, Vol. 12. No. 3. (2011), pp. 379-414.

[56] Regulation 345/2013/EU on European venture capital funds, Regulation 346/2013/EU on European social entrepreneurship funds, Regulation (EU) 2015/760 on European long-term investment funds

[57] Regulation 1286/2014/EU on documents containing special information related to residential investment package products and insurance-based investment products.

[58] Regulation (EU) 2017/1131 on money market funds
Li, Lei, Macchiavelli, M. et al.: Liquidity restrictions, runs, and central bank interventions: Evidence from money market funds. *The Review of Financial Studies* 34.11 (2021): 5402-5437.

III.3. European Capital Markets Union

Like the European Banking Union, the European Capital Market Union (CMU) seeks to deepen and further integrate member states' capital markets.[59] It plays a vital role in complementing the banking union, strengthening the EMU, and enhancing the international standing of the euro. The goals of the capital market union encompass providing new funding sources for companies, particularly SMEs, reducing capital-raising costs, expanding savings opportunities, increasing attractiveness for cross-border and foreign investments, supporting long-term projects, and fortifying the EU financial system's solidity, resilience, and competitiveness.[60] The European Commission laid the foundations for the capital market union by 2019, focusing on three mutually reinforcing dimensions: (i) supplementing the single internal market with regulatory elements related to the capital market union; (ii) creating a clear and proportionate system of rules to support businesses and entrepreneurs; (iii) a more effective supervisory system for the EU capital market.[61]

One of the main building blocks of the Capital Markets Union is the drive to revitalise the EU securitisation market and thereby better finance the EU economy. It will be based on the Simple, Transparent and Standardised (STS) Securitisation Regulation,[62] which sets common rules for all securitisations, establishes a framework for safe, simple, transparent, standardised and properly supervised securitisation products and helps to distinguish them from more complex and risky financial instruments.[63] It helps investors to assess the risks associated with securitisation, both within and across products. The new rules include that investors with a securitisation position must pre-test for all risks in the interest of the client; securitisation issuers must maintain a net economic interest (risk retention) of at least 5% and provide detailed information to holders; and securitisation special purpose entities (SSPEs) must not be established in high-risk non-EU Member States.

IV. Insurance sector

Insurance sector regulation was initiated in the 1960s with Directive 64/225/EEC, which abolished restrictions on reinsurance and retrocession. The 1970s saw the separation of life and non-life sectors through the First Council Directive (73/239/EEC) under Solvency I.[64] The Council's other First Directive (79/267/EEC) focused on legal harmonisation for direct life insurance activities. Composite insurance was no longer allowed from this point.[65] The first motor insurance directive (72/166 EEC) predates these developments.[66] Amendments in the 1980s (e.g., Directive 88/357/EEC) and in the 1990s

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[59] Veil, Rudiger, and Marc Wiesner: Harmonisation of Prospectus Liability. The Listing Act as an Opportunity for a Major Step towards a Capital Markets Union. *Orizzonti del Diritto Commerciale* (2023): 529.

[60] Quaglia, Lucia – Howarth, David – Liebe, Moritz: The political economy of European capital markets union, in *Journal of Common Market Studies*, Vol. 54. No. 1. (2016), 185.

[61] European Council: Deepening the European economic and monetary union. Note from the Commission before the European Council and Euro Summit of 28-29 June 2018 based on the document. Available: https://op.europa.eu/en/publication-detail/-/publication/73b8a5f2-ee08-11e8-b690-01aa75ed71a1 (20.11.2023).

[62] Regulation (EU) 2017/2402 on defining the general framework for securitization, establishing a unique framework for simple, transparent and standardized securitization, and 2009/65/EC, 2009/138/ EC and Directive 2011/61/EU and amending Regulation 1060/2009/EC and 648/2012/EU
The scope of securitisation includes transactions that enable lending businesses and other lenders – typically credit institutions or companies – to refinance loans, exposures or other claims (for example, home loans, car loans or car leases, consumer loans, credit card or trade receivables) a group by converting them into marketable securities.

[63] Engelen, Ewald - Glasmacher, Anna: Simple, Transparent and Standardized. Narratives, Law and the Interest Coalitions behind the European Commission's Capital Markets Union, in *FEPS Studies*, (2016).

[64] The Council's First Directive (1973) on the coordination of legal, regulatory and administrative provisions regarding the initiation and practice of direct insurance activities outside the scope of life insurance.

[65] Directive 79/267/EEC (1979) on the coordination of legal, regulatory and administrative provisions on the initiation and exercise of direct life insurance activities.

[66] Directive 72/166/EEC on the approximation of the laws of Member States relating to insurance against civil liability in respect of the use of motor vehicles, and to the enforcement of the obligation to insure against such liability

separately for the life and the non-life branch followed.[67] Criticisms of Solvency I arose in the Müller Report of 1997 and the Sharma Report of 2001. In the early 2000s, Directive 2002/83/EC on life insurance and Directive 2002/92/EC on insurance mediation were adopted. Directive 2000/26/EC, the fourth motor vehicle insurance directive, also emerged during this period.

IV.1. Solvency

The insurance market underwent significant regulatory changes post-financial crisis, with most prior legal acts repealed. The Solvency II Directive[68] and its supplementing regulation oversee insurer solvency in three pillars,[69] akin to Basel II in banking. It replaced the quantitative-based capital adequacy of Solvency I with an economic risk-based model, offering standard or internal model options based on economic evaluation.[70]

Solvency II mandates insurance companies to have sufficient financial resources for insurance and reinsurance, defining rules for management and supervision. Its scope includes non-life insurance, life insurance, and reinsurance. Capital requirements include the minimum capital requirement, ensuring policyholders' protection from excessive risk, and the solvency capital requirement, covering significant losses.

Besides the directive, the Solvency II Regulation further outlines three pillars: valuation and risk-based capital requirements, reserve rules, capital adequacy (Pillar I), strengthened corporate governance and supervision (Pillar II) and increased transparency, data provision and publication (Pillar III).[71] The regulatory burden aligns with an insurer's risk profile, emphasizing the need for internal credit ratings to reduce reliance on external ratings. Insurers using unapproved models for credit risk calculations must not bias estimates or yield lower capital requirements than those derived from external ratings. Supervisory authorities ensure insurers develop internal models for credit risk assessment when exposures are material and involve numerous significant counterparties.

Table 5
The main contents of the Solvency II Regulation and Directive

Solvency II - Regulation	Solvency II Directive
• Valuation and risk-based capital requirements (Pillar I), strengthened governance (Pillar II), greater transparency (Pillar III): valuation of assets and liabilities; insurance technical reserves; solvency capital requirement (standard formula; full and partial internal models); minimum capital requirement; investments; management system; supervision; special purpose economic entities; • Insurance groups: group-level solvency capital adequacy calculation (methods and internal model); supervision of group-level solvency capital compliance of groups with centralised risk management; • Equivalence provisions for third countries.	• Licensing; • Capital requirements; • Risk management system: appropriate management system; own risk and solvency assessment; • Special provisions for insurance and reinsurance; • Supervision: supervisory review, group supervisory authority.

Source: own compilation

[67] Directive 92/96/EEC on the harmonization of statutory, regulatory and administrative provisions on direct life insurance and amending Directives 79/267/EEC and 90/619/EEC
Directive 92/49/EEC on the harmonization of statutory, regulatory and administrative provisions relating to direct insurance outside the scope of life insurance and amending Directive 73/239/EEC and Directive 88/357/EEC
[68] Directive 2009/138/EC on the taking up and pursuit of the business of insurance and reinsurance.
[69] Regulation (EU) 2015/35 supplementing Directive 2009/138/EC on the taking up and pursuit of the business of insurance and reinsurance (Solvency II)
[70] Scherer, Matthias, and Gerhard Stahl: The standard formula of Solvency II: a critical discussion. *European Actuarial Journal* 11 (2021): 3-20.
[71] Regulation (EU) 2015/35 supplementing Directive 2009/138/EC on the taking up and pursuit of the business of insurance and reinsurance (Solvency II).
Kochenburger, Peter, and Patrick Salve: An Introduction to insurance regulation." *Research Handbook on International Insurance Law and Regulation*. Edward Elgar Publishing, 2023. 247-280.

IV.2. Certain insurance issues: motor vehicle, pension

In conjunction with the Solvency II Directive, Directive 2009/103/EC relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability (fourth motor vehicle insurance) ensures that individuals with compulsory motor vehicle liability insurance are covered throughout the EU. Directive 2016/97 on insurance distribution aims to enhance the sale of insurance products to benefit consumers and retail investors in the EU.

For occupational pension benefits and Institutions for Occupational Retirement Provision, the IORP II Directive regulates the activities and supervision of institutions providing such benefits.[72] Employer pension funds provide collective pension schemes for employers and can operate across EU member states, enabling cross-border management or establishing subsidiaries.[73] The directive focuses on minimum harmonisation, allowing Member States to maintain or introduce additional provisions to protect scheme members and beneficiaries. The Pan-European Personal Pension Product (PEPP), regulated by Regulation 2019/1238, complements existing pension systems. It offers savers greater choice and competitive pension products for voluntary retirement savings, ensuring strong consumer protection.[74] PEPPs can be provided by various financial service providers throughout the EU, including insurance companies, asset managers, banks, select investment firms, and certain occupational pension funds.

V. Payment services

One of the key issues of free capital movement and financial markets is the provision of cross-border payment services. This is confirmed by the TFEU Article 63(2), based on which all restrictions on payment transactions between Member States and between them and third countries are prohibited.

V.1. Cross-border payments

The Regulation 2560/2001 was replaced in 2009;[75] the current entered into force in 2021: Regulation 2021/1230 on cross-border payments in the Union, and requires the transparency of currency conversion charges.[76] This regulation mandates banks to apply the same rate for euro-based electronic payment transactions across European borders as they do for transactions within the same country.

Simultaneously, the PSD (Payment Services Directive)[77] was replaced in 2015 by PSD 2, which establishes the legal framework for enhancing the integrated internal market for electronic payments within the EU and the EEA.[78] It introduces comprehensive rules to simplify, make efficient, and secure international payments within the EU, aligning them with domestic transactions. PSD 2 enhances

[72] Directive (EU) 2016/2341 on the activities and supervision of institutions for occupational retirement provision (IORPs)

[73] Butler, Graham: Private Pensions and EU Internal Market Law: Enhancing Retirement Provision through Harmonisation. *European Business Law Review* 32.5 (2021).

[74] Kochaniak, Katarzyna, et al.: Does the Pan-European Personal Pension Product Suit All? Its Perspectives in the EU Member and Candidate Countries. *Comparative Economic Research. Central and Eastern Europe* 26.4 (2023): 141-162. and Bär, Maximilian: The pan-European Personal Pension Product: key characteristics and main challenges. *Zeitschrift für die gesamte Versicherungswissenschaft* 111.3 (2022): 305-337.

[75] Regulation (EC) 924/2009 on cross-border payments in the Community and repealing Regulation (EC) 2560/2001.

[76] Jimenez, María Nieves Pacheco: Payment services evolution: from the European Directive of 2007 to the Digital Single Market and the European Directive of 2015, in *Journal of European Consumer and Market Law*, Vol. 5. No. 5. (2016), pp. 219-221.

[77] Directive 2007/64/EC on payment services in the internal market and 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48 /EC on the amendment of Directive 97/5/EC and the repeal of Directive 97/5/EC.

[78] Directive (EU) 2015/2366 on payment services in the internal market and Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and 1093 /2010/EU on the amendment and repeal of Directive 2007/64/EC.
EEA: European Union and Iceland, Norway, Liechtenstein.

transparency and consumer protection while accommodating innovative payment services like internet and mobile payments. Regulatory and enforcement technical standards are developed by the European Banking Authority and accepted by the European Commission. The PSD 2 directive is complemented by Regulation 2015/751, which imposes a maximum interchange fee for banks on card-based transactions, reducing commercial costs and facilitating broader acceptance of debit and credit cards.[79] This has reduced costs for merchants by allowing debit and credit cards to be accepted.

Table 6
The main contents of the Regulation (EU) 2021/1230 and PSD 2

Regulation (EU) 2021/1230	**PSD 2**
• Electronic payment operations: transfers, direct debits, ATMs, bank and credit card payments, cash transfers; • Payments in euros or the national currency of other EU countries; • Use of International Bank Account Number (IBAN) and Bank Identification Code (BIC); • Disputes arising between banks and customers: complaint and complaint handling, effective out-of-court complaint and redress procedures; • Fines	• Electronic payments: internet and new innovative payment services similar to mobile payments; • Strict security requirements: protection of consumers' financial data; secure identification; reducing the risk of fraud; • Transparency and information; • Rights and obligations of users and providers of payment services; • Regulation 2015/751: bank commission maximum

Source: own compilation

The Single Euro Payments Area (SEPA) aims to simplify electronic payments throughout the euro area, ensuring no additional costs for cross-border transactions within the European Union. Regulation 260/2012/EU establishes rules and technical requirements for euro-denominated transfer and direct debit operations within SEPA.[80] It mandates access to national accounts for transfers and withdrawals in each EU country, emphasises interoperability of payment systems, and requires the use of international bank account numbers, bank identification codes, and financial messaging standards for all euro payments. Additionally, it grants paying parties the right to provide specific instructions, such as the amount and frequency of collections.

V.2. Anti-money laundering

The EU initiated its anti-money laundering efforts in the 1990s with Directive 91/308/EEC, the first AML Directive. The current legislative framework is based on Regulation 2015/847,[81] focusing on data accompanying money transfers, and Directive 2015/849 (AML4),[82] addressing the prevention of money laundering and terrorist financing. Under AML4, member states must ensure traceability of money transfers to the paying party, with a verification requirement for individual transfers exceeding €1,000. Payment service providers are obligated to request data on the payer and payee, especially for anonymous transfers, to mitigate money laundering and terrorist financing risks. AML4 applies to credit institutions, financial institutions, and designated non-financial entities (e.g., notaries, lawyers, gambling operators), mandating reporting of suspicions to public authorities. The directive tightens rules for identifying actual owners, prohibits non-registered accounts, and sets restrictions on non-registered

[79] Regulation (EU) 2015/751 on interchange fees for card-based payment transactions.
[80] Regulation 260/2012/EU establishing the technical and business requirements for euro transfers and direct debits and amending Regulation 924/2009/EC.
[81] Regulation (EU) 2015/847 on information accompanying transfers of funds and repealing Regulation (EC) No 1781/2006
[82] Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012, and repealing Directive 2005/60/EC and Directive 2006/70/EC

savings accounts. Directive 2018/843 (AML5), following the 2016 terrorist attacks, expands AML4 to include auditors, external accountants, tax advisors, real estate agents, and art dealers if the rental fee or transaction value exceeds €10,000. It also restricts banks from opening non-name vault accounts and lowers the prepaid card identity verification threshold to €150 from €250.[83] Regulation 2019/758 provides detailed rules and clarifications on regulatory technical standards and Directive 2019/1153 on preventing certain financial crimes and information disclosure.[84]

VI. Conclusion

The European Union has established a comprehensive regulation system to ensure the harmonisation of financial markets across its member states, promoting stability, safeguarding deposits, investor and consumer protection, and ultimately economic growth. The rules created a unified and resilient financial environment and enhanced market efficiency, transparency, security and confidence. The Treaty on the Functioning of the European Union is the legal foundation for the EU's regulatory framework for financial markets. The Economic and Monetary Union and the Stability and Growth Pact address monetary and development issues related to financial markets. The establishment of the European Banking Union and the European Capital Markets Union aims to strengthen the stability of the eurozone banking system and seeks to create a unified financial market.

The European Union has implemented the Basel Accords to mandate adequate capital and liquidity buffers for banks, even the capital markets, the investment sector and special funds, insurance, and finally, the payment services (with the fight against money laundering) bear a harmonised regulatory framework. Despite a prevailing shift towards standardised business practices, financial markets still exhibit robust national and traditional features. Challenges arise due to the simultaneous application of directives and regulations addressing the same issues (capital requirements, financial instruments markets, solvency). While the endorsement of dual legislation is based on its detailed provisions across EU member states, aiming to establish a unified rulebook (e.g., capital requirements), it also introduces inconsistencies. Directives, being more framework-oriented, reinforce the connection with national law, facilitating better adaptation to local conditions (e.g., capital buffers, supervisory tools, sanctions). However, the dual regulatory framework lacks uniformity, featuring diverse requirements and occasional shifts in regulatory scope. Moreover, the challenge of harmonizing EU legislation with national rules is pronounced, especially in the case of regulations with direct applicability and binding force, necessitating vigilant attention from legislators and law enforcers.

The ongoing refinement and adaptation of the EU's regulatory framework are essential to address evolving financial challenges, maintain market resilience, and support the continued growth of the European financial system. The EU's commitment to a stable, fair, and competitive financial landscape is essential for the economic prosperity of its member states and the stability of the global financial system.

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[83] Directive (EU) 2018/843 and Directive (EU) 2015/849 on the prevention of the use of financial systems for money laundering or terrorist financing, as well as 2009/138/EC and 2013/36/EU amending Directive.

[84] Regulation (EU) 2019/758 supplementing Directive (EU) 2015/849 with regard to regulatory technical standards for the minimum action and the type of additional measures credit and financial institutions must take to mitigate money laundering and terrorist financing risk in certain third countries

Directive (EU) 2019/1153 laying down rules facilitating the use of financial and other information for the prevention, detection, investigation or prosecution of certain criminal offences, and repealing Council Decision 2000/642/JHA

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