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Working Paper

EU Mapping 2017: Systematic overview on economic and financial legislation

SAFE White Paper, No. 49

Provided in Cooperation with:

Leibniz Institute for Financial Research SAFE

Suggested Citation: Langenbucher, Katja; Tröger, Tobias H.; Milione, Lara L.; Roth, Andreas (2017) : EU Mapping 2017: Systematic overview on economic and financial legislation, SAFE White Paper, No. 49, Goethe University Frankfurt, SAFE - Sustainable Architecture for Finance in Europe, Frankfurt a. M.,
<https://nbn-resolving.de/urn:nbn:de:hebis:30:3-438858>

This Version is available at:

<https://hdl.handle.net/10419/169361>

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EU Mapping 2017: Systematic overview on economic and financial legislation

SAFE White Paper No. 49

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This paper was provided at the request of the Committee on Economic and Monetary Affairs of the European Parliament and commissioned and drafted under the responsibility of the Policy Department A of the European Parliament. It was originally published on the European Parliament's webpage ([http://www.europarl.europa.eu/RegData/etudes/STUD/2017/607325/IPOL_STU\(2017\)607325_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2017/607325/IPOL_STU(2017)607325_EN.pdf)) © European Union [2017]. Copyright remains with the European Union at all times.

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DIRECTORATE-GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT
ECONOMIC AND SCIENTIFIC POLICY **A**



Economic and Monetary Affairs

Employment and Social Affairs

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Industry, Research and Energy

Internal Market and Consumer Protection

EU Mapping 2017: Systematic overview on economic and financial legislation

Study for the ECON Committee



DIRECTORATE GENERAL FOR INTERNAL POLICIES
POLICY DEPARTMENT A: ECONOMIC AND SCIENTIFIC POLICY

EU Mapping 2017:

Systematic overview on economic and financial legislation

STUDY

Abstract

This study provides a graphic overview on core legislation in the area of economic and financial services. The presentation essentially covers the areas within the responsibility of the Economic and Monetary Affairs Committee (ECON); hence it starts with core ECON areas but also displays neighbouring areas of other Committees' competences which are closely connected to and impacting on ECON's work. It shows legislation in force, proposals and other relevant provisions on banking, securities markets and investment firms, market infrastructure, insurance and occupational pensions, payment services, consumer protection in financial services, the European System of Financial Supervision, European Monetary Union, euro bills and coins and statistics, competition, taxation, commerce and company law, accounting and auditing. Moreover, it notes selected provisions that might become relevant in the upcoming Article 50 TEU negotiations. This document was provided by Policy Department A on request of the ECON Committee.

This document was requested by the European Parliament's Committee on Economic and Monetary Affairs.

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LINGUISTIC VERSIONS

Original: EN

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Manuscript completed in May 2017
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The European Parliament would like to thank the Verband der Öffentlichen Banken (VÖB) for granting the unrestricted use of their schematic display '*Kreditwirtschaftlich wichtige Vorhaben der EU*' as of 1 September 2016 as the basis for this note.

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LIST OF ABBREVIATIONS

ADR	Alternative Dispute Resolution [Directive 2013/11/EU]
AIFMD	Alternative Investment Fund Managers Directive 2011/61/EU
AMLD	Anti-Money Laundering Directive (EU) 2015/849 [AMDL IV] and proposed amendment COM(2016) 450 [AMDL V]
ARC	Accounting Regulatory Committee
AURC	Audit Regulatory Committee
BER	Block Exemption Regulation
BOP	Balance of Payment
BRRD	Banking Recovery and Resolution Directive 2014/59/EU
B2C	Business to Consumer
CBM	Cross-border Mergers Directive 2005/56/EC
CCCTB	Common Consolidated Corporate Tax Base [proposal COM(2016) 683]
CCD	Consumer Credit Directive 2008/48/EC
CCI	Convergence and Competitive Instruments
CCP	Central Counterparty [proposal COM(2016) 856]
CCTB	Common Corporate Tax Base [proposal COM(2016) 685]
CEAOB	Committee of European Auditing Oversight Bodies
CIWUD	Winding up of Credit Institutions Directive 2001/24/EC
CMU	Capital Markets Union
CPMLTF	Committee on the Prevention of Money Laundering and Terrorist Financing [regulatory committee]
CRA	Credit Ratings Agencies [CRA Regulation (EU) No 1060/2009, proposal COM(2016) 854]
CRD	Capital Requirements Directive 2013/36/EU [CRD IV; proposal COM(2016) 854, CRD V]
CRR	Capital Requirements Regulation (EU) No 575/2013 [CRR; proposal COM(2016) 850, CRR II]
CSD	Central Securities Depositories [Regulation (EU) No 909/2014]
DGSD	Deposit-Guarantee Schemes Directive 2014/49/EU
EBA	European Banking Authority [Regulation (EU) No 1093/2010]
EBC	European Banking Committee [Commission Decision 2004/10/EC]
ECB	European Central Bank
ECON	[European Parliament] Committee on Economic and Monetary Affairs
ECOFIN	Economic and Financial Affairs Council
SCE	European Cooperative Society [Council Regulation (EC) No

	1435/2003]
EDIS	European Deposit Insurance Scheme [proposal COM(2015) 586]
EDP	Excessive Deficit Procedure
EEA	European Economic Area
EEIG	European Economic Interest Grouping [Council Regulation (EEC) No 2137/85]
EFRAG	European Financial Reporting Advisory Group
EFSF	European Financial Stability Facility
EFSI	European Fund for Strategic Investments [Regulation (EU) 2015/1017]
EFSM	European Financial Stability Mechanism
EGBPI	Expert Group on Banking, Payments and Insurance
EGCMU	High-Level Expert Group on Sustainable Finance in the context of the Capital Markets Union
EGESC	Expert Group of the European Securities Committee
EGMLTF	Expert Group on Money Laundering and Terrorist Financing
EIOPA	European Insurance and Occupational Pensions Authority [Regulation (EU) No 1094/2010]
EIOPC	European Insurance and Occupational Pensions Committee
ELTIFS	European Long-Term Investment Funds [Regulation (EU) 2015/760]
EMI	Electronic Money Institution
EMIR	European Market Infrastructure Regulation (EU) No 648/2012
EMPL	Committee on Employment and Social Affairs
EMU	European Monetary Union
EPTF	European Post-Trade Forum
ESA	European System of (national and regional) Accounts [Regulation (EU) No 549/2013]
ESAs	European Supervisory Authorities [see EBA, EIOPA and ESMA]
ESAC	European Statistical Advisory Committee
ESFS	European System of Financial Supervision
ESC	European Securities Committee [Commission Decision 2001/528/EC]
ESCB	European System of Central Banks
ESM	European Stability Mechanism
ESMA	European Securities and Markets Authority [Regulation (EU) No 1095/2010]
ESP	European Statistical Programme
ESRB	European Systemic Risk Board [Regulation (EU) No 1092/2010]

ESS	European System of Statistics [Regulation (EC) No 223/2009 on European statistics]
ETD	Energy Taxation Directive 2003/96/EC
ETSC	European Technical and Scientific Centre
EU	European Union
EUSEF	European Social Entrepreneurship Funds [Regulation (EU) No 346/2013, proposed amendment COM(2016) 461]
EUVECA	European Venture Capital Funds [Regulation (EU) No 345/2013, proposed amendment COM(2016) 461]
FICOD	Financial Conglomerates Directive 2002/87/EC
FTR	Funds Transfer Regulation (EU) 2015/847
FTT	Financial Transaction Tax [proposal COM(2013) 71]
GAAP	Generally Accepted Accounting Principles
GDPR	General Data Protection Regulation (EU) 2016/679
GNI	Gross National Income
GNP	Gross National Product
GPSD	General Product Safety Directive 2001/95/EC
HICP	Harmonized Indices of Consumer Prices
IAS	International Accounting Standards [Regulation (EC) No 1606/2002]
ICSD	Investor-Compensation Schemes Directive 97/9/EC
IDD	Insurance Distribution Directive (EU) 2016/97
IFR	Multilateral Interchange Fees Regulation (EU) 2015/751 [also referred to as MIF]
IFRS	International Financial Reporting Standards
IMCO	[European Parliament] Committee on Internal Market and Consumer Protection
IMD	Insurance Mediation Directive 2002/92/EC
IORPs	Institutions for occupational Retirement Provision [Directive 2003/41/EC, IORP, and Directive (recast) 2016/2341, IORP II]
ITS	Implementing Technical Standards
I+R	Interest and Royalty Payments [I+R Directive 2003/49/EC and proposed recast COM(2011) 714]
JURI	[European Parliament] Committee on Legal Affairs
KID	Key Information Document [see PRIIPs]
LIBE	[European Parliament] Committee on Civil Liberties, Justice and Home Affairs
MAD	Market Abuse Directive 2014/57/EU [MAD II]
MAR	Market Abuse Regulation (EU) No 596/2014

MIF	Multilateral Interchange Fees [Regulation (EU) 2015/751, also referred to as IFR]
MiFID	Markets in Financial Instruments Directive 2004/39/EC and Directive 2014/65/EU [MiFID II]
MiFIR	Markets in Financial Instruments Regulation (EU) No 600/2014
MIP	Macroeconomic Imbalance Procedure
MMF	Money Market Funds [Regulation (EU) 2017/1131]
MOSS	Mini One Stop Shop [related to VAT]
MOU	Memorandum of Understanding
MREL	Minimum Requirement for own Funds and Eligible Liabilities [see proposal COM(2016) 2976]
MS	Member State
NCA	National Competition Authority
NPPR	National private placement regime
ODR	Online Dispute Resolution [see Regulation (EU) No 524/2013]
OMNIBUS I OMNIBUS II	Directive 2010/78/EU and Directive 2014/51/EU [N.B. these Directives are called 'Omnibus' because they amended multiple Directives in view of adapting them to the ESFS, in order to take account of the new supervisory authorities EBA, EIOPA and ESMA]
PPP	Purchasing Power Parity
PRIIPS	Packaged Retail and Insurance-based Investment Products [Regulation (EU) 1286/2014; also called Key Information Document, KID]
PSD	Payment Services Directive 2007/64/EC
PSD II	Payment Services Directive (EU) 2015/2366
PSMEG	Payment Systems Market Expert Group
PSP	Payment Service Provider
QRM	Quick Reaction Mechanism [against VAT fraud]
SAD	Statutory Audit Directive 2014/56/EU [SAD II]
SE	Societas Europaea [Regulation (EC) No 2157/2001]
SEPA	Single Euro Payments Area [Regulation (EC) No 924/2009]
SFD	Settlement Finality Directive 98/26/EC
SGEI	Services of General Economic Interest
SGP	Stability and Growth Pact
SME	Small and medium-sized Enterprise
SPE	Societas Privata Europaea [proposed European Private Company regulation COM(2008) 396; withdrawn, 2014/C 153/03]
SRM	Single Resolution Mechanism [Regulation (EU) No 806/2014]
SRF	Single Resolution Fund

SSM	Single Supervisory Mechanism [Regulation (EU) No 1024/2013; amendment EBA Regulation (EU) No 1022/2013]
SSR	Short Selling Regulation (EU) No 236/2012
STS	Simple Transparent Standardised [STS Securitisation proposal COM(2015) 472]
RTS	Regulatory Technical Standards
TBD	Takeover Bids Directive 2004/25/EC
TFEU	Treaty on the Functioning of the European Union
TLAC	Total Loss Absorbing Capacity [proposal COM(2016) 852]
T2S	TARGET 2 Securities [System]
UCITS	Undertakings for collective Investment in transferable Securities [UCITS IV Directive 2014/91/EU]
VAT	Value Added Tax [Directive 2006/112/EC]

INTRODUCTION

The European Parliament Committee on Economic and Monetary Affairs (ECON) is continuously interested in the **coherence** of the Acquis and the **consistency of definitions** contained in legislation within its competence¹. Therefore the Committee requested an update on the **mapping overview of main EU economic and financial services legislation**, published in 2014², which could serve as guiding background for further deliberations.

This **systematic overview** of main economic and financial services legislation consists primarily of **14 policy areas** relevant for ECON, listed in accordance with ECON's competences (banking, securities markets and investment firms, market infrastructure, insurance and occupational pensions, payment services, consumer protection in financial services, the European System of Financial Supervision, Monetary Union, competition, taxation) but extends to some other areas which have a bearing on ECON topics, too (e.g. commerce and company law, accounting/auditing, data and consumer protection).

These schemata **do not aim to achieve completeness** but provide a practical overview. In order to structure the overview in an easily accessible way, only the most relevant pieces of legislation based on their impact and importance in the specific areas for users are shown. Thus, it was necessary to **focus on main Directives and Regulations** and in general to **leave out delegated and implementing acts**. Also, only the most important (policy planning) texts such as Green or White Papers, Commission Communications, Commission Notices or Guidelines have been included, in particular in the field of competition. The full overview of the Acquis can be accessed via EUR-Lex, see for all areas <http://eur-lex.europa.eu/browse/directories/legislation.html> (which displays at the end of the page, for instance, as of March 2017 as adopted 574 acts for competition policy, 190 for taxation, 564 for economic and monetary policy and free movement of capital; however, these figures include inter alia Commission delegated and implementing acts).

In addition to the update of the previous version of this mapping overview, this edition contains a section for each policy area that specifies selected provisions potentially relevant in the context of the UK's withdrawal, i.e. provisions of the mapped legislative acts that might gain importance in the context of a **withdrawal of the United Kingdom from the European Union**, the Brexit. Beyond the passporting provisions - which would only stay applicable if the UK remained within the EU/EEA - the overview considers miscellaneous provisions that could gain importance if the UK exited the EU/EEA in a 'hard' Brexit and entered a status of 'third country'. The pertinent provisions can be found at the end of each policy area after the notes section. The outlined provisions of the relevant acts are categorised into

- a) **passporting provisions**,
- b) **equivalence provisions**, and
- c) **other relevant provisions** that might have an impact on the future relationship between the EU and the UK¹.

Like the schemata, the listings of these provisions do neither aim at achieving completeness nor evaluate the options of post-Brexit scenarios, but provide an overview of key aspects that may become relevant in future negotiations with the UK.

¹ On passporting and equivalence in financial services see also the study [The UK's Potential Withdrawal from the EU and Single Market Access under EU Financial Services Legislation](#) (2017), PE 595.334 and the Commission's staff working document [EU equivalence decisions in financial services policy: an assessment](#) of 27.2.2017 (SWD(2017) 102 final).

The overview was **finalised in May 2017** (with some updates until July 2017), therefore some legislation on which political agreement was already achieved but which has not yet been published in the Official Journal is mentioned in its proposal state.

LEGEND: HOW TO READ THE SCHEMATA

Colours, frame, and background of the boxes:

Title/body	white fields with dashed lines: subject titles or relevant expert body
... Directive	dark blue: adopted legal acts (mainly in ordinary legislative procedure)
-----	dotted lines between boxes highlight specific connections between the legal acts with regard to content or pending legislative procedures
	green vertical line on the left indicates passporting/red horizontal line above the box indicates equivalence
Proposal ...	light blue: legislative proposals
Green/White Paper on ...	grey: possibly envisaged legal acts, Green Papers, White Papers and other relevant Communications and Decisions
Intergov.	light orange: Intergovernmental Treaties in the area of EMU
Intl.Agreem.	dark orange: International Agreements (including preparatory steps)

Notes: below the boxes contain additional comments/details on the particular category

Fonts: normal (directives), *italics (regulations)*; **bold** (important acts in that field)

Asterix (*): legal act relates to several categories and is therefore listed several times

Titles: short titles of legal acts in graphic boxes; official titles provided in the endnotes

Size and order of boxes: The size and the order of the boxes are not indicative for the relevance of the legal acts.

While most chapters consist mainly only of 'Union [ex Community] method' legislation adopted in **ordinary legislative procedure** [ex co-decision], chapter 8 also indicates important **intergovernmental treaties**. There are only few legislative acts based on the ordinary legislative procedure involving the European Parliament in chapter 11 as most areas in taxation are in the exclusive competence of the Council, and in chapter 10 due to European Commission competence based directly on Treaty provisions.

A slightly different structure is applied for MAD, MiFID and IORP in order to highlight their relation with pending revisions and proposals; in these cases, the size and position of their box relates to their importance.

Miscellaneous:

- where helpful and necessary, categories are sub-divided in categories by titles, e.g. chapter 1. Banking (core banking, resolution and cross-sectoral issues);
- **secondary legislation** (delegated/implementing acts) texts are **not included** - except in chapter 10. Competition and chapter 11. Taxation; see for information '[Overview table on existing empowerments in basic acts for level 2 measures](#)';
- **hyperlinks**, in particular to consolidated versions are provided in **endnotes**;
- additional provisions are generally mentioned in 'notes', if considered important they are listed in boxes though;
- a **new section** lists provisions potentially relevant in the context of the UK's withdrawal (Brexit), in particular covering details of equivalence and passporting.

*** N.B. some pages are intentionally left blank to display the overview and the respective notes vis-à-vis ***

1. BANKING (INCL. DEPOSIT GUARANTEE SCHEMES AND RESOLUTION)

European Banking Authority Regulation (EBA) * ³					
For participating MS: SSM Regulation * ⁴ , ECB SSM Task Regulation ⁵ , SRMR, Single Resolution Board ⁶ , SRF					
European Banking Committee (EBC) ⁷					
Expert Group on Banking , Payments and Insurance (EGBPI) ⁸					
Core Banking		Banking Resolution		Cross-Sectoral	
The Single Rulebook ⁹ (CRD, CRR, DGSD, BRRD)					
Banking Directive (CRD IV) * ¹⁰	Banking Regulation (CRR) * ¹¹	Deposit-Guarantee Schemes Directive (DGSD) ¹²	Bank Recovery and Resolution Directive (BRRD) * ¹³	Consumer Credit Directive (CCD) * ¹⁴	Financial Conglomerates Directive (FiCoD) * ¹⁵
Proposal CRD V* ¹⁶	Proposal CRR Amendment * ¹⁷		TLAC Proposal* ¹⁹		
	Proposal CRR II ¹⁸				
Annual Accounts and consolidated Accounts of Banks Directive* ²⁰	Branches Obligations Directive* ²¹	Winding up of Credit Institutions Directive (CIWUD) * ²²	Proposal Insolvency Hierarchy of Unsecured Debt * ²³	Mortgage Credit Directive * ²⁴	Distance Marketing Directive * ²⁵
Proposal Banking Structural Reform Regulation ²⁶	Payment Accounts Directive * ²⁷	Proposal European Deposit Insurance Scheme (EDIS) ²⁸	Single Resolution Mechanism Regulation (SRMR)* ²⁹	Multilateral Interchange Fees Regulation (MIFs) * ³⁰	Securities Financing Transactions Regulation * ³¹
			Proposal Loss-Absorbing and Recapitalisation Capacity Regulation ³²		
			SRF Intergovernmental Agreement* ³³	Payment Services Directive II (PSD II) * ³⁴	Proposal STS Securitisation Regulation * ³⁵
			Green Paper (2015) on retail financial services* ³⁶	Communication (2014) on long-term financing of European Economy* ³⁷	
			Action Plan (2017) on consumer financial services* ³⁸	Communication (2013) on Shadow Banking* ³⁹	

Notes:

- The **CRD**, the **CRR**,⁴⁰ and the **BRRD** have been supplemented by numerous delegated acts and regulations as well as by regulatory technical standards (RTS) and implementing technical standards (ITS).
- In regard to the Single Supervisory Mechanism (SSM) and the Single Resolution Mechanism (SRM), i.e. supervision by the ECB and resolution by the Single Resolution Board, see also chapter 7.
- The ECOFIN Council agreed on position on **banking structural reform** on 19.06.2015.⁴¹
- The 'Commission Communication on Long-Term Financing of the European Economy' (see chapter 2.) refers to the role for banks in the channelling of financing to long-term investments. Omnibus I (see chapter 7.) amends several legal acts to implement and harmonise the field of operation of the ESAs, including the EBA.
- Banks and financial institutions listed on stock exchanges are obliged to follow the International Accounting Standards adopted by the EU, as well as the relevant company law and other relevant directives (see chapters 12. - 14.), as applied in the EU Member States.
- For **statistical reporting of banks** (except the [AnaCredit](#) Regulation⁴²) see chapter 9.
- As regards **State aid in the banking sector**, see the Commission's Banking Communication of 2013.⁴³

Provisions potentially relevant in the context of the UK's withdrawal

- [SSM Regulation](#)

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	none	Art. 3(6) Art. 7(1) Art. 8

Other relevant provisions: Art. 3(6) - the ECB and the competent authorities of non-participating Member States shall conclude a memorandum of understanding describing in general terms how they will cooperate in the performance of their supervisory tasks under Union law; Art. 7(1) - close cooperation through ECB decision with the competent authorities of participating Member States whose currency is not the euro; Art. 8 - the ECB may develop contacts and enter into administrative arrangements with supervisory authorities, international organisations and the administrations of third countries, subject so appropriate coordination with the EBA.

- [CRD IV](#) & [Proposal CRD V](#)

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
Art. 8 to 21 Art. 33 to 39	Art. 127	Art. 47(3) Art. 48 Art. 55 Art. 21b CRD V

CRD IV largely implements the Basel III requirements, to which the UK would most likely still be committed after a potential Brexit.

Passporting provisions: Art. 8 to 21 - specify requirements for the access to activity of credit institutions; single license; Art. 33 to 39 - contain provisions concerning the freedom of establishment and the freedom to provide services.

Equivalence provisions: Art. 127 - assessment of equivalence of third-countries' consolidated supervision.

Other relevant provisions: Art. 47(3) - **the EU** may, through agreements concluded with one or more third countries, agree to apply provisions which grant to branches of a credit institution having its head office in a third country identical treatment throughout the territory of the Union; Art. 48 - cooperation with supervisory authorities of third countries regarding supervision on a consolidated basis; Art. 55 - Member States and the EBA may conclude cooperation agreements providing for exchange of information with the supervisory authorities of third countries or with authorities or bodies of third countries.

Proposal CRD V: Art. 21b - Member States shall require that two or more institutions in the Union (which are part of the same third-country group) have an **intermediate EU parent undertaking** that is established in the Union which is required to obtain authorisation as an institution in accordance with Art. 8 or Art. 21a CRD V.

- [CRR](#)

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	Art. 107(4) Art. 114, 115, 116 Art. 142	none

Equivalence provisions: Art. 107(4) - allows institutions to treat exposures to third-country investment firms, credit institutions and exchange as exposure to similar EU

financial institutions, see equivalence decisions adopted for

- *exposures to credit institutions* (Australia, Brazil, Canada, China, Guernsey, Hong Kong, India, Isle of Man, Japan, Jersey, Mexico, Monaco, Saudi Arabia, Switzerland, Singapore, South Africa and USA in 2014);
- *exposures to investment firms* (Australia, Brazil, Canada, China, Hong Kong, Indonesia, Japan, Mexico, South Korea, Saudi Arabia, Singapore, South Africa, USA in 2016);
- *exposures to exchanges* (Australia, Brazil, Canada, China, India, Indonesia, Japan, Mexico, Saudi Arabia, Singapore, South Africa, South Korea and USA in 2016).

Art. 114, 115, 116 - the specific risk weights applicable to *exposures to central governments, central banks, regional governments, local authorities and public sector entities* may apply to similar entities located in third countries for the purpose of *calculation of the capital ratio* of EU financial institutions, see equivalence decisions for Australia, Brazil, Canada, China, Guernsey, Hong Kong, India, Isle of Man, Japan, Jersey, Mexico, Monaco, Saudi Arabia, Singapore, South Africa, Switzerland and USA adopted in 2014.

Art. 142 - a subsidiary located in a third country can be taken into account for the *definition of large financial sector entity*, see equivalence decisions on

- *credit institutions* (Australia, Brazil, Canada, China, Guernsey, Hong Kong, India, Isle of Man, Japan, Jersey, Mexico, Monaco, Saudi Arabia, Singapore, South Africa, Switzerland and USA adopted in 2016); and
- *investment firms* (Australia, Brazil, Canada, China, Hong Kong, Indonesia, Japan, Mexico, South Korea, Saudi Arabia, Singapore, South Africa and USA in 2016).⁴⁴

- **Mortgage Credit Directive**

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
Art. 32	none	none

Passporting provisions: Art. 32 - freedom of establishment and freedom to provide services for (home Member State admitted) credit intermediaries for the provision of services covered by the admission (but not for credit agreements offered by non-credit institutions to consumers in a Member State where such non-credit institutions are not allowed to operate). N.B. Appointed representatives (under Art. 31) are not allowed to carry out the credit intermediation activities or to provide advisory services in Member States where such appointed representatives are not allowed to operate.

- **SRM Regulation**

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	none	Art. 32

Other relevant provisions: Art. 32 - consultation of, and cooperation with, non-participating Member States and third countries. The Board, the ECB and the resolution and competent authorities of the non-participating Member States shall conclude memoranda of understanding.

- **Securities Financing Transactions Regulation**

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	Art. 2(4) Art. 19 Art. 21	none

Equivalence provisions: Art. 2(4) - central bank exemption: exemption of the monetary responsibilities of third-country central banks and bodies (no equivalence

decision has been adopted yet); Art. 19(1) - trade repositories: equivalence and recognition of trade repositories in third countries (no equivalence decision has been adopted yet); Art. 21(1)(b) - transaction requirements: equivalence of legal, supervisory and enforcement arrangements of a third country ensuring protection of professional secrecy (no equivalence decision has been adopted yet).

- [**DGSD**](#)

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	none	Art. 15

Other relevant provisions: Art. 15 - branches of credit institutions established in third countries may be required to join a DGS if protection is not deemed equivalent to the one provided by the DGSD.

- [**BRRD**](#)

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	none	Art. 55 Art. 93 to 98

Other relevant provisions: Art. 55 - contractual recognition of bail-in: third-country issuers may be required to include a contractual term for the recognition of bail-in; Art. 93 to 98 - relations with third countries: the Commission may propose agreements with third countries (international agreement, Art. 93(1)), third-country resolution proceedings can be recognised and enforced, cooperation with third-country authorities can be established; exchange of information with third-country authorities can be established.

- [**FiCoD**](#)

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	Art. 18(1)	Art. 19

Equivalence provisions: Art. 18(1) - competent authorities shall verify whether the regulated entities, the parent undertaking of which has its head office outside the Union, are subject to supervision by a third-country competent authority, which is equivalent to that provided for by the FiCoD.

Other relevant provisions: Art. 19 - cooperation with third-country competent authorities.

- [**CIWUD**](#)

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	none	Art. 19

Other relevant provisions: Art. 19 - host MS information exchange on proceedings against branches of third-country credit institutions.

* * *

2. SECURITIES MARKETS AND INVESTMENT FIRMS

European Securities and Markets Authority Regulation (ESMA) *45						
European Securities Committee (ESC) 46						
Expert Group of the European Securities Committee (EGESC) 47						
Securities Markets					Investment Firms	
[Prospectus Directive] * 48	Trans- parency Directive * 49	Listing Directive 50	Short Selling Regulation (SSR) 51	Takeover Bids Directive (TBD) * 52	Financial Conglomerates Directive (FiCoD) * 53	Banking Directive (CRD IV) * 54
Prospectus Regulation 55						Proposal CRD V * 56
Market Abuse Regulation (MAR) 57		Investor- Compen- sation- Schemes Directive (ICSD) 58	Financial Collateral Arrange- ments Directive * 59	Markets in Financial Instruments Regulation (MiFIR) 60		Banking Regulation (CRR) * 61
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Communication (2014) on long-term financing of European Economy * 80				Communication (2013) on Shadow Banking * 81		
Communication (2015) on Capital Markets Union Action Plan * 82						
Communication (2016) of the Commission on Capital Markets Union – Accelerating Reform * 83						
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Notes:

- Due to lack of space on this page, the area of 'Market Infrastructure (Clearing & Settlement)' is displayed on the next page although it pertains to securities markets.
- **MAR** repealed Directive 2003/6/EC (Market Abuse Directive (MAD I)⁸⁵) **with effect from 3 July 2016**.
- **MiFID II** repeals **Directive 2004/39/EC** (MiFID) as of **3 January 2018**.
- The **Prospectus Regulation** repeals the **Prospectus Directive** 2003/71/EC with effect from 21 July 2019, except for some specific provisions (see Article 46).
- The European Commission has launched a **public consultation on insolvency frameworks** in the European Union from 23 March 2016 to 14 June 2016⁸⁶.
- On 25 April 2016 the EU Commission published the **first CMU status report**⁸⁷.
- The **Acquisitions Directive***⁸⁸ 2007/44/EC pertaining to three Insurance Directives, MiFID and CRD III has been formally repealed only for the insurance Directives (in Solvency II). As regards Article 3 on MiFID, MiFID II has not repealed this Article 3, but as its provisions are contained in the MiFID II text and as MiFID will be repealed in due course, Article 3 of the Acquisitions Directive may be assumed to be 'caduc' in the near future. The **Review Report** of the Commission (due in 2011) was delivered on 11 February 2013⁸⁹.
- According to some directives (e.g. MiFID), there is also a role for the other ESAs (EBA and/or EIOPA) in certain areas.
- The Green Paper on shadow banking (see chapter 1.) refers to aspects on securities lending and securitisation.
- **Omnibus I** (see chapter 7.) amends legal acts to implement and harmonise the field of operation of ESAs.

Provisions potentially relevant in the context of the UK's withdrawal

- On **CRR, BRRD, FiCoD, Securities Financing Transactions Regulation, and CRD IV & Proposal CRD V** see chapter 1. Banking.
- [Prospectus Directive](#) (repealed with effect from 21 July 2019)

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
Art. 17(1)	Art. 4 Art. 20(3)	Art. 20(1)

Passporting provisions: Art. 17(1) - a prospectus approved by one Member State shall be valid for the public offer or the admission to trading in another Member State after a notification by the competent authority to each host Member State.

Equivalence provisions: Art. 4 - exemptions from the obligation to publish a prospectus; Art. 20(3) - equivalence decision regarding mechanisms to draw up a prospectus.

Other relevant provisions: Art. 20(1) - approval of prospectus for an offer to the public or for admission to trading on a regulated market drawn up by an issuer with a registered office in a third country in accordance with the legislation of that third country.

- [Prospectus Regulation](#)

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
Art. 24- 27	Art. 28-30	Art. 33

Passporting provisions: Art. 24 - a prospectus approved by one Member State shall be valid for the public offer or the admission to trading in another Member State after a notification by the home competent authority to each host Member State.

Equivalence provisions: Art. 28 - approval of a prospectus drawn up in compliance with third-country law.

Other relevant provisions: Art. 33 - cooperation agreements between competent authorities of the home Member States and supervisory entities of the third countries regarding the exchange of information and the enforcement of obligations under this proposed regulation in the third countries.

- [Transparency Directive](#)

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	Art. 23(4)	Art. 25(4) Art. 30(3)

Equivalence provisions: Art. 23(4) Sub-para 3 - equivalence of third-country accounting standards with IFRS (see equivalence decisions adopted on Canada, China and South Korea in 2012 and Japan and US in 2008); Art. 23(4) - general transparency requirements. The third country where the issuer is registered ensures the equivalence of the information requirements provided for in the Transparency Directive. No equivalence decision has been adopted yet.

Other relevant provisions: Art. 25(4) - cooperation agreements between Member States (and ESMA) and the competent authorities of third countries providing for exchange of information; Art. 30(3) - exemption from drawing up financial statements for third-country issuers by the home Member State as long as no

equivalence decision according to Art. 23(4) was taken and some other requirements are fulfilled.

- **Listing Directive**

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	none	Art. 48(4)

Other relevant provisions: Art. 48(4) - exemption for shares admitted in one or more Non-Member States from the requirement to ensure a sufficient distribution to the public in one or more Member States (paragraph 1).

- **SSR**

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	Art. 17(2)	Art. 16(1) Art. 38

Equivalence provision: Art. 17(2) - the Commission may adopt decisions determining that the legal and supervisory framework of a third country ensures that a market authorised in a third country complies with legally binding requirements which are equivalent to the requirements under certain legislation (MiFID, MAD and Transparency Directive) and which are subject to effective supervision and enforcement in that third country. No equivalence decisions have been taken yet.

Other relevant provisions: Art. 16(1) - exemptions for shares admitted to trading on a trading venue in the Union where the principal trading venue (trading venue with the highest turnover) is located in a third country; Art. 38 - cooperation agreement for the exchange of information with supervisory authorities of third countries, the enforcement of obligations and the taking of similar measures in third countries.

- **MAR**

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	Art. 6(5) and (6)	Art. 25(8) Art. 26(1)

Equivalence provisions: Art. 6(5) - exemption for monetary and public debt management activities (Australia, Brazil, Canada, China, Hong Kong, India, Japan, South Korea, Mexico, Singapore, Switzerland, Turkey, US); Art. 6(6) - exemption for climate policy activities.

Other relevant provisions: Art. 25(8) - cooperation and information exchange between competent authorities and third-country regulatory authorities responsible for related spot markets regarding acts which constitute prohibited practices; Art. 26(1) - cooperation arrangements between competent authorities of Member States with supervisory authorities of third countries regarding the exchange of information and the enforcement of obligations under the MAR in third countries.

- **ICSD**

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	none	Art. 11(1)

Other relevant provisions: Art. 11(1) - Member States may stipulate that branches established by an investment firm with its head office in the Community shall join investor-compensation schemes in operation within its territory if the branches do not have cover equivalent to the prescribed in the ICSD.

- **Benchmark Regulation**

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
Art. 29	Art. 30(2) and (3)	Art. 33(1) Art. 51(5)

Passporting provisions: Art. 29 - use of benchmarks across the EU based on single authorisation/registration.

Equivalence provisions: Art. 30(2) and (3) - regarding third-country benchmarks with regard to all administrators authorised or registered in the third country (2) or specific administrators (3).

Other relevant provisions: Art. 33(1) - endorsement of benchmarks provided in a third country by an administrator located in the EU; Art. 51(5) - transitional provision regarding the use of benchmarks for which the Commission did not adopt an equivalence decision, the administrator has been recognised or the benchmark has been endorsed by an administrator located in the EU.

- **CRA**

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	Art. 5(6)	Art. 4(3) Art. 34(1)

Equivalence provisions: Art. 5(6) - regarding third-country credit rating agencies (Argentina, Australia, Brazil, Canada, Hong Kong, Japan, Mexico, Singapore, US).

Other relevant provisions: Art. 4(3) - endorsement of credit ratings issued in a third country by a credit rating agency established in the EU; Art. 34(1) - cooperation agreement on exchange of information with the supervisory authority of third countries.

- **MiFID**

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
Art. 31(1)	Art. 19(6)	Art. 15(2) and (3) Art. 24(4) Art. 32(1) Art. 63(1)

Passporting provisions: Art. 31(1) - freedom to provide investment services and activities.

Equivalence provisions: Art. 19(6) - a third-country market shall be considered as equivalent to a regulated market if it complies with equivalent requirements to those established under Title III (Article 36ff.) MiFID. A list of equivalent markets shall be published by the Commission and the ESMA on their websites.

Other relevant provisions: Art. 15(2) - negotiation from the Commission with third countries if third countries do not grant equal market access to EU investment firms compared to the access the EU grant to investment firms from these countries; Art. 15(3), negotiation from the Commission in order to remedy the situation that EU investment firms are not granted national treatment affording the same competitive opportunities as are available for domestic investor firms and that the conditions of effective market access are not fulfilled; Art. 24(4) - recognition of third-country entities as eligible counterparties by Member States; Art. 32(1) - establishment of a branch in another Member State; Art. 63(1) - cooperation agreement for the exchange of information.

- **MiFID II**

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
Art. 34(1)	Art. 25(4)(a)	Art. 30(4) Art. 35(1) Art. 39(1) Art. 40 Art. 41(1) Art. 88(1)

Passporting provisions: Art. 34(1) - freedom to provide investment services and activities.

Equivalence provisions: Art. 25(4)(a) - regarding third-country markets.

Other relevant provisions: Art. 30(4) - recognition of third-country entities as eligible counterparties by Member States; Art. 35(1) - establishment of a branch in another Member State; Art. 39(1) - Member States may require third-country firms to establish a branch in that Member State for providing investment services or providing investment activities; Art. 40 - mandatory information to be provided by third-country firms intending to obtain authorisation or providing investment activities in the territory of a Member State through a branch; Art. 41(1) - granting authorisation to a third-country firm to establish a branch by the competent authority of the Member State; Art. 88(1) - cooperation agreement for the exchange of information.

- **MiFIR**

Third Country 'Passporting' Provisions	Equivalence Provisions	Other relevant Provisions
Art. 46 Art. 47(3) for third-country MiFID II branches concerning cross-EU-border provision of services	Art. 28(4) Art. 33(2) Art. 38(3) Art. 47(1)	Art. 1(9) Art. 23(1), 28(1)(d) Art. 38(1)

Third-country passporting provisions: Art. 46 - for provision of services to professional clients in the EU by ESMA-registered third country firms where the third country is found equivalent; Art. 47(3) - where the branch of a third-country firm is established and authorised in a Member State according to Art. 39 MiFID II and the legal and supervisory arrangements of that third country have been found equivalent according to Art. 47(1), the branch may provide services (only) to 'eligible counterparties and to professional clients' in other EU Member States without the need to establish a branch in these Member States, provided the third country firm is duly registered with the ESMA. **To be noted that these provisions are not about the 'normal' passporting for EU entities, but similar rules for third country entities.**

Equivalence provisions: Art. 28(4) - requirements to be met by third-country trading venues in order to be deemed equivalent by COM; Art. 33(2) - regarding the legal, supervisory and enforcement arrangements of a third country; Art. 38(3) - regarding the access to benchmarks and licences; Art. 47(1) - regarding the legal and supervisory arrangements of a third country.

Other relevant provisions: Art. 1(9) - central bank exemptions; Art 23(1), 28(1)(d) - EU investment firms are allowed to trade shares and derivatives that have been declared subject to a trading obligation on equivalent third-country trading venue; Art. 38(1) - access of third-country trading venues and CCPs recognised under EMIR to CCPs and trading venues of the Union subject to an additional equivalence decision of the Commission.

- **Proposal CCP Recovery and Resolution Regulation**

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	none	Art. 4(4) Art. 15(3) Art. 74(1) Art. 75 Art. 77 Art. 78

Other relevant provisions: Art. 4(4) - competent and resolution authorities of clearing members established in third countries and competent and resolution authorities of third-country CCPs may participate in the resolution college as observers; Art. 15(3) - third-country authorities may be involved in drawing up and review of resolution plans by the resolution authority if they meet the relevant confidentiality requirements; Art. 74(1) - agreements with third countries regarding the means of cooperation between the resolution authorities and the relevant third-country authorities in connection with recovery and resolution planning in relation to CCPs and third-country CCPs; Art. 75 - recognition and enforcement of third-country resolution proceedings in the absence of an international agreement with this third country; Art. 77 - cooperation arrangements with third-country authorities for sharing information for and cooperating in carrying out specific tasks and exercising specific powers; Art. 78 - exchange of confidential information with relevant third-country authorities.

- **Amending Proposal (long-term shareholder engagement)**

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	none	Art. 3a to 3e

Other relevant provisions: Art. 3a to 3e - a third-country intermediary who has established a branch in the Union shall be subject to the rules on shareholder identification, transmission of information, facilitation of shareholder rights and transparency of prices, fees and charges to ensure effective application of the provisions on shares held via such intermediaries.

* * *

3. INVESTMENT FUNDS AND MANAGERS; MARKET INFRASTRUCTURE

European Securities and Markets Authority Regulation (ESMA) * ⁹⁰				
European Securities Committee (ESC) ⁹¹				
Expert Group of the European Securities Committee (EGESC) ⁹²				
Investment Vehicles			Market Infrastructure (Clearing & Settlement)	
Undertakings for collective Investment in transferable Securities Directive (UCITS IV) ⁹³	European Venture Capital Funds Regulation (EuVECA) ⁹⁴	Alternative Investment Fund Managers Directive (AIFMD) ⁹⁵	European Post-Trade Forum (EPTF) ⁹⁶	
	European Social Entrepreneurship Funds Regulation (EuSEF) ⁹⁹		European Market Infrastructure Regulation (EMIR) ⁹⁷	Settlement Finality Directive (SFD) * ⁹⁸
				Proposal amending EMIR ¹⁰⁰
			Proposal 3rd Country CCPs in EMIR ¹⁰²	
Key Information Documents Regulation (KID/PRIIPs) * ¹⁰³	Proposal amending EuVECA and EuSEF ¹⁰⁴	European long-term investment fund Regulation (ELTIFs) ¹⁰⁵	Proposal CCP Recovery and Resolution Regulation * ¹⁰⁶	
Application date of PRIIPs ¹⁰⁷	Amending Proposal (long-term shareholder engagement) * ¹⁰⁸	European Strategic Investment Fund Regulation (EFSI) ¹⁰⁹	Central Securities Depositories Regulation (CSDR) ¹¹⁰	
		Proposal EFSI 2.0 Regulation ¹¹¹		
Money Market Funds Regulation (MMF) ¹¹²	Securities Financing Transaction Regulation * ¹¹³			
Communication (2013) on Shadow Banking * ¹¹⁴			ECB Recommendation for a Decision amending Article 22 of the ESCB Statute ¹¹⁵	
Communication (2014) on long-term financing of European Economy * ¹¹⁶				
Communication (2015) on Capital Markets Union Action Plan * ¹¹⁷				
Communication (2016) of the Commission on Capital Markets Union – Accelerating Reform * ¹¹⁸				
Communication (2017) of the Commission on the Capital Markets Union Mid-Term Review * ¹¹⁹				

Notes:

- The area of 'Market Infrastructure (Clearing & Settlement)' is displayed here together with Investment Vehicles due to lack of space on the previous overview; subject-wise, C&S pertains mainly to the area of securities markets.
- According to some directives (e.g. EMIR), there is also a **role for the other ESAs** (EBA and/or EIOPA) in certain areas.
- Legislation such as EuSEF, ELTIF, EFSI, etc. shall also benefit small and medium-sized enterprises (SMEs) and is part of the Horizon 2020 Framework Programme for Research and Innovation (and therefore a driver for **InnovFin – EU Finance for Innovators**).
- The proposal to amend the EuVECA and EuSEF were made in the broader context of planning towards a Capital Markets Union ('**CMU Action Plan**')¹²⁰.
- Regarding the **EMIR**, the European Commission has adopted certain equivalence decisions for CCPs and trading venues (e.g. Brazil, Dubai, India, Japan Commodities, New Zealand, UA Commodities, CFTC, Switzerland, Canada, Mexico, South Africa, Korea, Australia, Hong Kong, Japan, and Singapore). Detailed information on the EMIR review can be found on a dedicated Commission website¹²¹.
- With the proposal of the **Recovery and Resolution of CCPs the European Commission** proposed to apply an approach on CCPs similar to the one embedded in the BRRD. The new rules should ensure that CPPs critical functions are preserved while maintaining financial stability and helping to avoid restructuring or resolution costs at taxpayers' expense.
- The Commission published a Report¹²² on the appropriateness of Article 3(1) of the **Financial Collateral Arrangements Directive** on 29.06.2016.
- The Commission established in 2016 a **High-Level Expert Group on Sustainable Finance in the context of the Capital Markets Union**¹²³. The Interim Report was published in June 2017¹²⁴; the final report is due in December 2017.

Provisions potentially relevant in the context of the UK's withdrawal

- On **Securities Financing Transactions Regulation** see chapter 1. Banking; on **Proposal CCP Recovery and Resolution Regulation**, and **Amending Proposal (long-term shareholder engagement)** see chapter 2. Securities Markets and Investment Firms.

- UCITS IV**

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
Art. 16-21	none	none

Passporting provisions: Articles 16-21 - on freedom of establishment and freedom to provide services.

No equivalence regime: i.e. third country funds are not governed by the UCITS Directive but are AIFs governed by AIFMD within the EU/EEA. EU fund managers can act as a management company of an EU/EEA UCITS.

- AIFMD**

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
Third country 'passporting provisions'		
Art. 32	none	none
Art. 35, 39 - 41		

Passporting provisions: Art. 32 - the AIFMD sets out a comprehensive passport regime for managers and marketers of alternative investment funds (AIFs) in the EU. The passport is available to authorised EU alternative investment fund managers (AIFMs).

Third-country passporting provisions: Art. 35, 39 to 41 - the passport shall **also be available to third-country alternative investment fund managers in 'equivalent' jurisdictions (= equivalence assessment relating to passporting)**. This means that under the AIFMD, 'passports' for third countries under AIFMD will subject to the ESMA completing its 'equivalence' assessment of the respective third countries and deciding whether to issue a positive signal for the Commission to extend the passporting provision. At the moment, a third-country fund manager can only access the EEA market under the relevant national private placement regime (NPPR) or must rely on reverse solicitation. **To be noted that these provisions are not about the 'normal' passporting for EU entities, but similar rules for third country entities.**

This above described process requires a country-by-country assessment and some EU Member States impose stricter rules on non-EU AIFM as permitted under Article 42. It is envisaged that the NPPR will be terminated after the passports for non-EU countries are activated, provided that ESMA can conclude that there are no significant obstacles regarding investor protection, market disruption, and competition or monitoring of systemic risk impeding its termination (Article 68 of AIFMD).

Currently, the passport has not been extended to any third country, but ESMA has only recently published advice that there are no significant obstacles impeding the application of the passport to certain non-EU countries.

- **EMIR and *EMIR proposal***

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
Art. 14(2) - single authorisation CCPs clearing services Art. 55(3) – for trade repositories Art. 7, 8 – right of non-discriminatory access	Art. 1(6) Art. 2a Art. 13 Art. 25(6) Art. 75 Art. 76a proposal	none

Passporting provisions: Art. 7, 8, 14(2), 55(3) – provides for EU CCP to obtain single authorisation allowing clearing services provision in the EU; EU trade repositories can operate EU wide following registration with ESMA; EU trading venues and CCP have non-discriminatory rights of access to each other.

Equivalence provisions: Art. 1(6), on central bank exemption. Transactions with central banks from third countries can be exempted from the scope of the regulation in the same way as transactions with the European System of Central Banks (see equivalence decisions adopted by Japan and US in 2013); Art. 2a, on regulated markets. Defines when a third-country market is considered equivalent to a regulated market (see equivalence decisions adopted by Australia, Canada, Japan, Singapore and US¹²⁵ in 2016); Art. 13, on transaction requirements. Third-country regimes can be considered as equivalent to avoid complication of conflicting rules on financial transactions. No equivalence decision has been adopted yet; Art. 25(6), on CCPs. A procedure for the recognition of central counterparties established in third countries. For a third-country clearing house to have direct access to European members or exchanges without needing to be established in the EEA, a cooperation arrangement between ESMA and the third country needs to be in place, the equivalence decision needs to be issued alongside with ESMA recognition (see equivalence decisions adopted by Australia, Brazil, Canada, Dubai, Hong Kong, India, Japan, South Korea, Mexico, New Zealand, Singapore, South Africa, Switzerland, UAE and US)¹²⁶; Art. 75, on trade repositories. Third-country trade repositories can be recognised equivalent to be able to conclude international agreements or the exchange of information on derivatives contracts. No equivalence decision has been adopted yet.

The proposed Art. 76a would establish equivalence conditions for trade repositories and based thereon access for third country relevant authorities to EU repositories data.

- **CSDR**

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
Art. 23, 24	Art. 25	none

Passporting provisions: Art. 23, 24 – allows CSDs to provide their core and ancillary services in the EU directly or via a branch.

Equivalence provisions: Art. 25 - equivalence system for the recognition of CSDs authorised under third-country legal regimes. A third-country CSD may provide services in the EU if (i) a cooperation arrangement between ESMA and the third-country regulator is in place, (ii) the equivalence decision is adopted, (iii) the CSD is subject to authorisation, supervision and oversight, (iv) the third country provides for the equivalent recognition of foreign CSDs in its country, and (v) where relevant, the third-country CSD takes the necessary measures to allow its user to comply with the relevant national law of the Member State in which the third-country CSD intends to provide CSD services. No equivalence decision has been adopted yet.

- **[ELTIF](#), [MME](#), [EUVECA](#), [EUSEF](#) Regulations**

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
Art. 3(1) ELTIF Art. 4 MMF Art. 4 EUVECA Art. 4 EUSEF	none	none

Passporting provisions: A number of marketing passports are provided, see articles referred to above.

- **[SFD](#)**

There is no equivalence regime. However, a third-country settlement system may become a 'designated system' under the SFD provided that the system is governed by the law of an EU Member State as chosen by its participants. This requires that the participants choose the law of a Member State in which at least one of them is headquartered.

UK transposed the SFD through the Financial Markets and Insolvency Settlement Finality Regulations. However it might be necessary to amend the UK regulation, otherwise it is possible that the finality protections afforded in the UK would cease to operate. UK-based designated systems might be required to change the governing law of the rules of their system to an EU Member State law in order to maintain the existing SFD designation and thus protection.

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4. INSURANCE AND OCCUPATIONAL PENSIONS

European Insurance and occupational Pensions Authority Regulation (EIOPA)* 127				
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Communication (2017) of the Commission on the Capital Markets Union Mid-Term Review* 151				

Notes:

- On 10 October 2014, the Commission adopted a Delegated Regulation containing implementing rules for Solvency II that entered into force on 18 January 2015.
- In July 2016, the EU launched a public consultation on a potential EU personal pension framework.
- **Solvency II repeals by 1 January 2016 the following Directives:** Directives 73/239/EEC (Non-Life Insurance Directive¹⁵²), 98/78/EC (Insurance Groups Directive¹⁵³), 2001/17/EC (Winding Up of Insurance Undertakings Directive¹⁵⁴) and 2002/83/EC (Life Assurance Directive¹⁵⁵).
- **IDD repeals Directive 2002/92/EC** (Insurance Mediation Directive, IMD) **by 23 February 2018.**
- **IORP II Directive repeals Directive 2003/41/EC** (IORP Directive) **by 13 January 2019.**
- Further non-life insurance Directives exist for the following sectors: tourist assistance, legal expenses and motor vehicle liability.
- The **Acquisitions Directive**^{*156} 2007/44/EC pertaining to the Third Non-Life Insurance Directive, the Live Insurance Directive, the MIFID, the Reinsurance Directive and CRD III is repealed for the three Insurance Directives with the application of Solvency II (1 January 2016, see Annex VI Part A of Solvency II). The **review Report** (due by 21 March 2011) was delivered on 11 February 2013 (COM(2013) 64 final).
- **Omnibus I** (see chapter 7.) amends legal acts to implement and harmonise the field of operation of ESAs. **Omnibus II**¹⁵⁷ adapts the directives in the insurance field and Solvency II to the new ESAs framework but also amends **Solvency II** on substance.
- The Insurance Committee Directive 91/675/EEC¹⁵⁸ has been amended by the Directive on establishing a new organisational Structure for Financial Services Committees 2005/1/EC¹⁵⁹ which changed in its Article 5 the initial reference to the Insurance Committee to the 'European Insurance and Occupational Pensions Committee' (**EIOPC**) which had been established (also) by **Commission Decision 2004/9/EC**.¹⁶⁰ **The EIOPC advises the Commission based on the Commission Decision and it acts as a 'comitology' committee based on the Council Directive.**

Provisions potentially relevant in the context of the UK's withdrawal

- On **FiCoD** see chapter 1. Banking.
- [Solvency II](#)

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
Art. 147 to 149	Art. 172(2) and (4) Art. 227(4) and (5) Art. 260(3) and (5)	Art. 145, 146 Art. 162 to 171

Passporting provisions: Art. 147-149 - freedom to provide services by insurance undertakings.

Equivalence provisions: Art. 172(2) and (4), full (2) or temporary (4) - equivalence regarding reinsurance activities of undertakings with third-country headquarters (*full*: Bermuda, Switzerland, *temporary*: Japan); Art. 227(4) and (5), full (4) or provisionally (5) equivalence regarding third-country solvency rules for calculation of capital requirements and own funds for EU insurers and reinsurers in third countries (*full*: Switzerland, *temporary*: Australia, Brazil, Canada, Japan, Mexico, US, *partial*: Bermuda); Art. 260(3) and (5), full (3) or temporary (5) equivalence of group supervision for third-country insurers and reinsurers in the EU exercised by the third-country supervisory authorities (*full*: Switzerland, *partial*: Bermuda).

Other relevant provisions: Art. 145-146 - establishment of a branch in another Member State; Art. 162-171 - authorisation of third-country branches established in a Member State and possibility of the EU to conclude agreements with third countries regarding the application of different provisions to those provided in this Chapter under conditions of reciprocity (Art. 171).

- [IMD](#)

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
Art. 6(1)	none	none

Passporting provisions: Art. 6(1) - freedom to provide services or freedom of establishment for insurance or reinsurance intermediaries.

- [IORP Directive](#)

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
Art. 20(1)	none	none

Passporting provisions: Art. 20(1) - permission to sponsor IORPs authorised in other Member States and permission for IORPs authorised in the home Member State to accept sponsorship by undertakings located in other Member States.

- [IORP II Directive](#)

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
Art. 11(1)	none	Art. 12(4)

Passporting provisions: Art. 11(1) - IORPs to carry out cross-border activities.

Other relevant provisions: Art. 12(4) - authorisation for cross-border transfers from an IORP in one Member State to an IORP in another Member State.

- [IDD](#)

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
Art. 4(1)	none	none

Passporting provisions: Art. 4(1) - freedom to provide services for insurance, reinsurance or ancillary insurance intermediaries.

- **PEPP Proposal**

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
Art. 4, 8 , 11	none	none

Passporting provisions: Art. 4, 8, 11 – single EIOPA authorisation and EU wide distribution.

5. PAYMENT SERVICES AND ANTI-MONEY LAUNDERING

European Banking Authority Regulation (EBA) *161					
Payment Services				Anti-Money Laundering	
Expert Group on Banking, Payments and Insurance (EGBPI) 162				Expert Group on Money Laundering and Terrorist Financing (EGMLTF) 163	
Payment Systems Market Expert Group (PSMEG) 164 / Payments Committee165				Committee on the Prevention of Money Laundering and Terrorist Financing CPMLTF 166	
SEPA Council167					
Payment Services Directive (PSD) * 168	Multilateral Interchange Fees Regulation (MIFs) *169	SEPA Regulation170	Settlement Finality Directive (SFD) * 171	Controls of Cash Regulation172	Protection of the euro against Counterfeiting Regulation* 173
Payment Services Directive II (PSD II) * 174				Proposal Controls of Cash Regulation II175	Extension to non-euro MS Regulation176
2nd E-Money Directive177				AMLD IV178	Pericles 2020 Programme Regulation179
Payment Accounts Directive* 180	Regulation electronic identification (eIDAS) * 181	SEPA Mitigation Regulation182	E-Invoicing in Public Procurement Directive183	Proposal AMLD V184	
Green Paper (2015) on retail financial services* 185		Review SEPA Regulation extend to all non-Euro EU currencies186		EU Funds Transfer Regulation187	
Action Plan (2017) on consumer financial services* 188	Green Paper (2011) on Cards189			Communication (2016) on Fight Against Terrorist Financing190	
				EU Strategy against the proliferation of weapons of mass destruction [Council] 191	

Notes:

- On 2 February 2016, the Commission presented an Action Plan¹⁹² to strengthen the fight against terrorist financing.
- The **Payment Services Directive II** shall be implemented and applied by the Member States by 13 January 2018. **The Payment Service Directive** is repealed with effect from 13 January 2018.
- The **AMLD IV** shall be implemented by the Member States by 26 June 2017. **The AMLD III** (2005/60/EC) is repealed with effect from 26 June 2017.
- Several other directly applicable [Council] **Financial Sanctions Regulations** on freezing of assets and confiscation exist to enforce certain aspects of anti-money laundering (see http://ec.europa.eu/justice/criminal/recognition-decision/confiscation/index_en.htm for details).
- Anti-money laundering requirements are mostly a task for banks; but it is a **horizontal issue** which touches upon **company law, payment systems, criminal law/sanctions, and financial crime**. Therefore, the LIBE Committee is involved. The **link with company law** is established by the discussion about '*beneficial owner*' (registries), i.e. the appropriate identification and disclosure of the ultimate ownership of funds/assets.

Provisions potentially relevant in the context of the UK's withdrawal

- On **SFD** see chapter 3. Investment Funds and Managers; Market Infrastructure.
- PSD & PSD II**

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
Art. 25-27 PSD (Art. 17 for agent/branch) Art. 28-31 PSD II (Art. 19 for agent/branch)	none	none

Passporting provisions: Art. 25-27 PSD/Art. 28-31 PSD II - passporting rights are available to an EU authorised payment institutions. Art. 17 PSD/Art. 19 PSDII- an authorised payment institutions is also able to provide services via an EU established agent/branch, see also *Guidelines on PSD Passport Notifications*.¹⁹³

- Second E-Money Directive**

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
Art. 3(1), (4)	none	Art. 8

Passporting provision: Art. 3 - passporting rights are available under the Second E-Money Directive to authorised electronic money institutions (EMIs). An EU authorised EMI can provide payment services in another EU/EEA Member State through an agent established in the home Member State or an agent established in another EU/EEA Member State and may engage an agent or a distributor to distribute or redeem e-money in another EU/EEA State in the exercise of its passporting rights.

Other relevant provisions: Art. 8 – Relations with third countries.

6. CONSUMER PROTECTION IN FINANCIAL SERVICES

Financial Services			General Consumer Protection		
Credit & retail services	Payment services	Insurance	Redress & education	General rights & digital	Specific consumer protection
Distance Marketing Directive * 194			Directive on consumer ADR ¹⁹⁵	Consumer Rights Directive ¹⁹⁶	Unfair Commercial Practices Directive ¹⁹⁷
Consumer Credit Directive (CCD) * 198	[Payment Services Directive (PSD) * 199]	Insurance Mediation Directive (IMD) * 200	<i>Regulation on Consumer ODR</i> ²⁰¹	<i>Consumer Protection Cooperation Regulation</i> ²⁰²	Misleading Advertising Directive ²⁰³
Mortgage Credit Directive * 204	Payment Services Directive II (PSD II) * 205	Insurance Distribution Directive [recast] (IDD) * 206	Injunctions for the Protection of Consumers Directive ²⁰⁷	Electronic Commerce Directive ²⁰⁸	Unfair Contract Terms Directive ²⁰⁹
	Payment Accounts Directive * 210		<i>Small Claims Procedure Regulation</i> * 211	Copyright in information society Directive ²¹²	Price Indication Directive ²¹³
Key Information Document Regulation (KID/PRIIPs) * 214	<i>Multilateral Interchange Fees Regulation (MIFs)</i> * 215			<i>Consumer Programme Regulation</i> ²¹⁶	
	<i>Regulation electronic identification (eIDAS)</i> * 217			Proposal contracts for supply of digital content Directive * 218	
				Proposal contracts for the online and other distance sales of goods Directive * 219	

Action Plan (2017) on consumer financial services * 220

Notes:

- **PSD II repeals Directive 2007/64/EC** (Payment Services Directive (PSD)²²¹) with effect from **13 January 2018**.
- **IDD repeals Directive 2002/92/EC** (Insurance Mediation Directive (IMD)²²²) with effect from **23 February 2018**.
- General consumer protection is in the ambit of the **IMCO Committee** while ECON covers specific financial services related legislation.
- The **Consumer Rights Directive** replaced by 13 June 2014 **the Doorstep Selling Directive 85/577/EEC**²²³ and the **Distance Selling Directive 97/7/EC**²²⁴ which are consequently not displayed above. For contracts before that date, the latter Directives continue to apply.
- **Regulation KID/PRIIPs** (see above and in chapter 2.) refers to consumer protection aspects by requiring a standardised *Key Information Document* (KID) to be provided to retail investors before they purchase certain types of retail investment products. The above mentioned **Small Claims Procedure Regulation***²²⁵ is relevant for consumers pertain also to the area of civil law (see chapter 14.).
- Following a cross-party initiative of the European Parliament, the Commission initiated at the end of 2011 a project aimed at **providing grants**²²⁶ **to support the development of a financial expertise centre for the benefit of consumers** to enhance their ability to participate in Union policy-making in the area of financial services, to foster the development of a resilient banking system, and to ensure that the interests of consumers and other financial services end-users would be reflected in new Union law, to ensure that the wider public would be better informed about issues at stake in financial regulation.
- This overview focuses on the consumer protection areas relevant for ECON. In addition, there is legislation in specific areas, for instance
 - (i) further **legislation for goods and product safety**: the **General Product Safety Directive (GPSD)**²²⁷; the amending proposal for this Consumer Product Safety Regulation²²⁸; the proposal for a Market Surveillance Regulation;²²⁹ and the Sales and Guarantees Directive²³⁰.
 - (ii) Specific **issues related to holidays** are covered by the Package Travel Directive²³¹ and the Timeshare Directive²³².
 - (iii) Various **passenger rights regulations**: Nos. 261/2004 and 2027/97 (Air Passengers, under review), 1371/2007 (Rail Passenger), 1177/2010 (Maritime and Inland Waterway Passengers), 181/2011 (Bus and Coach Passengers).

Provisions potentially relevant in the context of the UK's withdrawal

- On **Mortgage Credit Directive** see chapter 1. Banking; on **IMD** and **IDD** see chapter 4. Insurance and Occupational Pensions; on **PSD & PSD II** see chapter 5. Payment Services and Anti-Money Laundering.

- Consumer Protection Cooperation Regulation**

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	none	Art. 6(1) Art. 7(1) Art. 8(1) Art. 14(1) and (2) Art. 18

Other relevant provisions: Art. 6(1) - exchange of information on request between competent authorities of Member States regarding the occurrence or suspicion of an intra-Community infringement; Art. 7(1) - exchange of information without request between competent authorities of Member States regarding the occurrence or suspicion of an intra-Community infringement; Art. 8(1) - request for enforcement measures between competent authorities of Member States to bring about the cessation or prohibition of intra-Community infringements; 14(1) - exchange of information received by an authority of a third country with the relevant competent authorities of other Member States, insofar as permitted by bilateral assistance agreement with the third country; Art. 14(2) - communication of information to an authority of a third country under a bilateral assistance agreement due to the consent of the competent authority that originally communicated the information; Art. 18 - cooperation agreements between the Community and third countries.

- Electronic Commerce Directive**

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	none	Art. 19(2) and (5)

Other relevant provisions: Art. 19(2) - Member States shall cooperate with other Member States and appoint contact points; Art. 19(5) - communication of significant administrative or judicial decisions to the Commission and communication from the Commission of these decisions to other Member States.

- Small Claims Procedure Regulation**

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	none	Art. 20(1)

Other relevant provision: Art. 20(1) - Member States shall recognise and enforce a judgement given in another Member State in the European Small Claims Procedure.

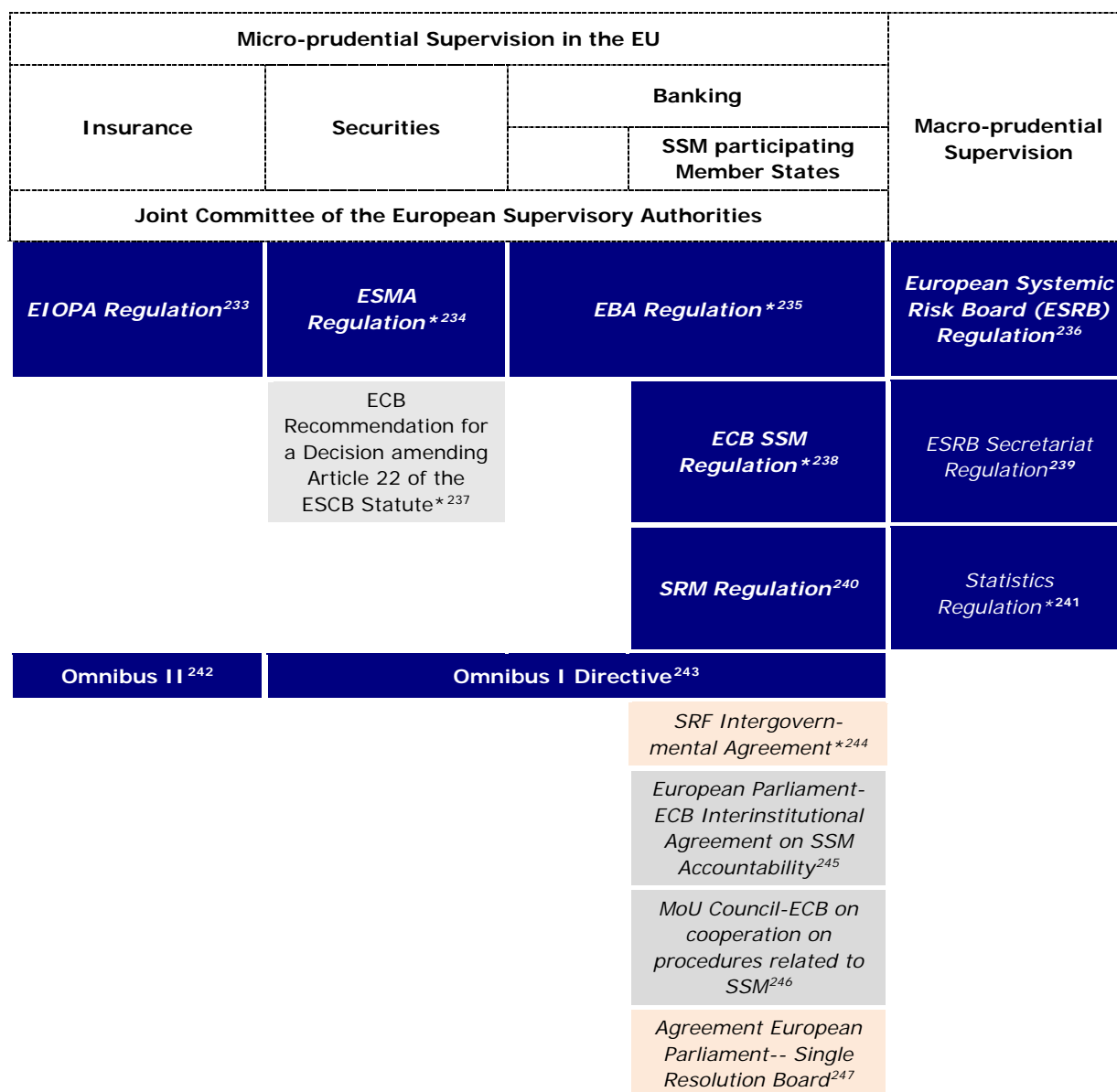
- Consumer Programme Regulation**

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	none	Art. 7(1)(a) and (b)

Other relevant provisions: Art. 7(1)(a) - participation of the EFTA-countries in the multiannual consumer program; Art. 7(1)(b) - participation of third countries in the multiannual consumer program in accordance with the terms and conditions for their participation in Union programs.

* * *

7. EU SYSTEM OF FINANCIAL SUPERVISION (ESFS)



Notes:

- The **European System of Financial Supervision (ESFS)** was created as a decentralised, multi-layered system of micro- and macro-prudential authorities in order to ensure consistent and coherent financial supervision in the EU. This supervisory system is currently undergoing major changes further to the introduction of a Banking Union.
- The European Commission issued a report to the European Parliament and to the Council on the operation of the European Supervisory Authorities (ESAs) and the European System of Financial Supervision (ESFS) in August 2014²⁴⁸. It is expected that the Commission will adopt a legislative proposal regarding a **review of the framework of the ESAs** end 2017.

- **The SSM Regulation and the SRM Regulation** (see chapter 1.) refer to the architecture of supervisory and resolution authorities to supervise, recover or resolve banks.
- The **Omnibus I Directive** is valid until 2 January 2018 and is repealed by Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU²⁴⁹ and extended validity by Directive (EU) 2016/1034 of the European Parliament and of the Council of 23 June 2016 amending Directive 2014/65/EU on markets in financial instruments.²⁵⁰
- While **Basel III**²⁵¹ is currently in the process of finalisation, it is often talked about as a new Basel IV framework due to the extensive requirements posted by the Basel Committee. In this context it is noteworthy that recent EU proposals (CRD V/CRR II Proposal and Debt Subordination/TLAC Proposal) – besides incorporating the Basel III finalisation – already contain Basel IV provisions.
- The **ESMA** is the single direct supervisor of Credit Rating Agencies (**CRAs**) within the EU. Under EMIR, ESMA has direct responsibilities regarding the registration, supervision and recognition of trade repositories (**TRs**) based outside the EU. EU-based TRs need to be authorised, and third country (non-EU) based TRs which are doing business in the EU need to be recognised by ESMA, in order for counterparties to use them for their EMIR reporting requirements.

Provisions potentially relevant in the context of the UK's withdrawal

- On **SSM Regulation**, **SRM Regulation** and **Omnibus I** see chapter 1. Banking; on **Omnibus II** see chapter 4. Insurance and Occupational Pensions.
- [EIOPA Regulation](#), [ESMA Regulation](#), and [EBA Regulation](#)

Passporting Provisions	'Equivalence Provisions'	Other relevant Provisions
none	Art. 33(2)	Art. 33(1) Art. 75

Provisions related to equivalence: Art. 33(2) - the Authority shall assist in preparing equivalence decisions pertaining to supervisory regimes in third countries in accordance with the acts referred to in Art. 1(2).

Other relevant provisions: Art. 33(1) - the Authority may develop contracts and enter into administrative arrangements with supervisory authorities, international organisations and the administrations of third countries; Art. 75 - participation in the work of the Authority shall be open to third countries which have concluded agreements with the Union whereby they have adopted and are applying Union law in the areas of the competence of the Authority as referred to in Art. 1(2). The Authority may cooperate with the above mentioned countries applying legislation which has been recognised as equivalent in the areas of competence of the Authority as provided for in international agreements concluded by the Union in accordance with Art. 216 TFEU.

- [ESRB Regulation](#)

Passporting Provisions	'Equivalence Provisions'	Other relevant Provisions
none	none	Art. 9(5)

Other relevant provision: Art. 9(5) - participation in the work of the ESRB may be open to high-level representatives of the relevant authorities from third countries.

8. EUROPEAN MONETARY UNION

Fiscal Surveillance: Stability and Growth Pact (SGP)		Macroeconomic Surveillance Macroeconomic Imbalance Procedure (MIP)		Financial Assistance
Art. 121 TFEU Multilateral Surveillance	Art. 126 TFEU and Protocol No 12 on EDP	Art. 121(6) TFEU		Art. 122(2), Art. 136(3); Art. 143 TFEU
<i>Six Pack Regulation Preventive Arm of SGP</i> ²⁵²	<i>Six Pack Regulation Corrective Arm of SGP</i> ²⁵³	<i>Six Pack Regulation on the Prevention and Correction of macroeconomic Imbalances</i> ²⁵⁴		(Intergovernmental) Treaty establishing the Stability Mechanism (ESM) ²⁵⁵
	<i>Commission (2015) Communication on built-in flexibility</i> ²⁵⁶	<i>Six Pack Regulation on Enforcement Measures to correct excessive macroeconomic Imbalances in the Euro Area</i> ²⁵⁷		<i>European Financial Stability Mechanism Regulation (EFSM)</i> ²⁵⁸
	<i>Regulation on Speeding up and Clarifying EDP Implementation</i> ^{*259}			
	<i>Application of Protocol on EDP Regulation</i> ²⁶⁰			
	<i>Six Pack Regulation Effective Enforcement</i> ²⁶¹			
Six Pack Directive Budgetary Frameworks ^{* 262}				
<i>Two Pack Regulation Budgetary Plans</i> ²⁶³				
<i>Two Pack Regulation Budgetary Surveillance</i> ²⁶⁴				<i>Balances of Payments Facility Regulation</i> ²⁶⁵
Commission Decision on establishing an independent advisory European Fiscal Board ²⁶⁶		<i>Proposal for a Regulation on Statistics for Macroeconomic Imbalance Procedure</i> ²⁶⁷		<i>Proposal Council Regulation for Financial Assistance Facility for non-euro area MS</i> ²⁶⁸
European Council Resolution on SGP ²⁶⁹				ESM By-Laws ²⁷⁰
(Intergovernmental) Treaty on Stability, Coordination and Governance (Fiscal Compact) ²⁷¹				Framework Agreement European Financial Stability Facility (EFSF) ²⁷²
Commission Green Paper (2011) on Stability Bonds ²⁷³	Commission (2012) Blueprint on EMU ²⁷⁴	Four Presidents’ Report (2012) on EMU ²⁷⁵	European Council (2012) Roadmap on EMU ²⁷⁶	EP Resolution (2012) on EMU (Thyssen Report) ²⁷⁷
Commission White Paper on the future of Europe (2017) ²⁷⁸	Commission Reflection paper (2017) on the deepening of the economic and monetary union ²⁷⁹	Five Presidents’ Report (2015): Completing Europe's Economic and Monetary Union ²⁸⁰	EP Resolution (2015) on stocktaking of EU governance framework (Berès Report) ²⁸¹	EP Resolution (2017) on budgetary capacity for the euro area (Berès Böge Report) ²⁸²

Notes:

- The secondary framework for the **Fiscal Surveillance (SGP)** consists inter alia of the SGP Code of Conduct;²⁸³ the Two Pack Code of Conduct;²⁸⁴ the Commission Communication replacing the Commission Communication on Harmonised Framework for Draft Budgetary Plans²⁸⁵ and the Delegated Regulation on Two Pack Regulation on Budgetary Plans²⁸⁶.
- An economic governance **review** of the Six Pack and Two Pack rules²⁸⁷ showed that the legislation had contributed to the progress of the fiscal consolidation in the EU.
- The Commission issued **guidance**²⁸⁸ in 2015 on how it will apply the Stability and Growth Pact rules to strengthen the link between structural reforms, investment and fiscal responsibility in support of jobs and growth.
- Commission Communications (2013) outlining proposals for the new **EMU architecture**: Communication on Convergence & Competitive Instruments (CCI);²⁸⁹ Communication on Ex-ante coordination of plans for major economic policy reforms²⁹⁰.
- Commission Communications (2015) outlining proposals for strengthening the EMU: Communication on steps towards completing Economic and Monetary Union²⁹¹; Communication on a roadmap for moving towards a more consistent external representation of the euro area in international fora²⁹².
- Commission proposed a Council decision on laying down measures in view of progressively establishing unified representation of the euro area in the International Monetary Fund²⁹³ and recommended a Council recommendation on the establishment of National Competitiveness Boards within the Euro Area²⁹⁴.
- EP Resolutions addressing institutional features of the EMU: Resolution on improving the economic governance and the stability framework (Feio Report)²⁹⁵; Resolution on future legislative proposals on EMU²⁹⁶; Resolution on democratic decision making in future EMU²⁹⁷.
- On the 'Proposal for a Regulation on Statistics for Macroeconomic Imbalance Procedure'²⁹⁸ and on the 'Proposal Council Regulation for Financial Assistance Facility for non-euro area MS'²⁹⁹ no progress has been made since 2014.
- White Paper process: The White paper presented by the European Commission on 1 March sets out possible paths for the future of Europe. The Commission White paper describes five scenarios for how the Union could evolve, depending on the choices we will make. A series of five reflection papers were subsequently published to open the discussion on the issues that will most affect our future. On EMU, a *Reflection paper on the deepening of the economic and monetary union* was published on 31 May 2017.

9. EURO NOTES AND COINS; STATISTICAL ASPECTS

Euro Bills and Coins				
Euro Regulation I ³⁰⁰	Euro Regulation II ³⁰¹	Euro Regulation III ³⁰²	Euro Coins Regulation ³⁰³	European Technical and Scientific Centre (ETSC) ³⁰⁴
			Euro Coins Issuance Regulation ³⁰⁵	Protection of the euro against Counterfeiting Regulation ^{*306}

Statistical Aspects		
Art. 338 TFEU, European Statistical Advisory Committee (ESAC) ³⁰⁷		Art. 5 Statute of ESCB and ECB
Regulation on establishing the revised European system of national and regional accounts (ESA 2010) ³⁰⁸	Six Pack Directive on Budgetary Frameworks ³⁰⁹	ESCB Statistics Regulation ^{*310}
Regulation on European Statistics (ESS) ³¹¹	Application of Protocol on Excessive Deficit Procedure Regulation ^{*312}	Payment Statistics Regulation of the ECB ³¹³
ESS Reference Metadata Commission (2009) Recommendation ³¹⁴	Regulation on Speeding up and Clarifying Implementation of EDP ^{*315}	ECB holdings of securities statistics Regulation ³¹⁶
European Statistical Program (ESP) Regulation ³¹⁷		Proposal for a Regulation on Statistics for Macroeconomic Imbalance Procedure ³¹⁸
Proposal amending ESP Regulation ³¹⁹		ECB Decision on confidential statistical info to SRB ³²⁰
PRS Alignment Omnibus ³²¹		
Commission (2012) Decision on the Role of Eurostat ³²²		
European Statistics Code of Practice ³²³		
RPS omnibus COM(2016)0799		

Notes:

- The proposal for a Regulation on Statistics for Macroeconomic Imbalance Procedure is still in its first reading, while 2 opinions (one of the ECB and one of the European Parliament) are already given.
- Several (European Commission) regulations are in place dealing with **data and statistical confidentiality issues**.³²⁴
- **Further regulations** cover i.e. the following statistical indicators and areas: Statistics on Trading Goods between Member States,³²⁵ Harmonized indices of consumer prices (HICP), Balance of Payment (BOP), Purchasing Power Parities (PPP), Gross National Income (GNI), Gross National Product (GNP) and the European System of Accounts (ESA)³²⁶.
- **Cooperation** between the **European Statistical System (ESS)**, i.e. the national entities for statistics and Eurostat) and the **European System of Central Banks (ESCB)** are in place for example via the Committee on monetary, financial and balance of payments statistics³²⁷ or a Memorandum of Understanding (MoU) between the ESS and the ESCB³²⁸
- In view of the Commission Communication on Robust **quality management of European Statistics**,³²⁹ the European Parliament adopted a resolution on this issue³³⁰.
- On **gross national income at market prices**, there is the Proposal for a Regulation of the European Parliament and of the Council on the harmonisation of gross national income at market prices (**GNI Regulation**) repealing Council Directive 89/130/EEC, Euratom and Council Regulation (EC, Euratom) No 1287/2003; COM/2017/0329 final.

Provisions potentially relevant in the context of the UK's withdrawal

- **ESP Regulation**

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	none	Art. 14 Annex, Part III, Objective 1.4

Other relevant provisions: Art. 14 - participation in the programme by third countries (EEA/EFTA countries, Switzerland and countries to which the European Neighbourhood Policy applies); Annex, Part III, Objective 1.4 - promotion and implementation of statistical advisory and statistical activities in countries outside the Union in line with the priorities of the foreign policy of the Union, e.g. through establishing agreements and Memoranda of Understanding with third countries.

- **Commission Decision on the Role of Eurostat**

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	none	Art. 6(1)(d)

Other relevant provision: Art. 6(1)(d) - cooperation with international organisations and third countries in order to facilitate the comparability of European statistics.

10. COMPETITION

Antitrust, Art. 101-102 TFEU	Cartels, Art. 101 TFEU	Mergers	State Aid Art. 107-109 TFEU		Liberalisation
Cartel Regulation No. 1/2003 ³³¹		Merger Regulation No. 139/2004 ³³²	Procedural Regulation 2015/1589 ³³³	Implementing Regulation No. 794/2004 ³³⁴	Art. 4 (3) TEU; Art. 3, 106, 258 TFEU; Protocol No. 27 on SGEI
Procedural Regulation No. 773/2004 ³³⁵		Implementing Regulation No. 802/2004 ³³⁶	Enabling Regulation No. 2015/1588 ³³⁷	De minimis aid Regulation No. 1407/2013 ³³⁸	Services of general economic interest (SGEI) Regulation ³³⁹
Notice on the definition of relevant market ³⁴⁰					
Notice on agreements of minor importance (de minimis) ³⁴¹		Guidelines on the assessment of horizontal mergers ³⁴²	Recommendation concerning the definition of SMEs ³⁴³		
BER research and development agreements No. 1217/2010 ³⁴⁴	Settle- ment Notice No. 622/2008 ³⁴⁵	Guidelines on the assessment of non- horizontal mergers ³⁴⁶	General BER No. 651/2014 ³⁴⁷	Banking Communication ³⁴⁸	Communication on SGEI compensation ³⁴⁹
BER specialisation agreements No. 1218/2010 ³⁵¹	Settlement Regulation ³⁵²	Notice on remedies No. 802/2004 ³⁵³	Notice on simplified procedure ³⁵⁴		Decision public services compensation to SGEI ³⁵⁵
Guidelines on horizontal cooperation agreements ³⁵⁶		Notice on restrictions ³⁵⁷	Notice on notion of state aid ³⁵⁸	Recovery Notice ³⁵⁹	
BER vertical agreements No. 330/2010 ³⁶⁰	Leniency Notice ³⁶¹	Notice on simplified procedure ³⁶²	Notice on unlawful State aid ³⁶³	Communication on important projects of common European interests ³⁶⁴	Communication State aid in form of public service compensation ³⁶⁵
Guidelines on vertical restraints ³⁶⁶				Guidelines on risk finance investments ³⁶⁷	
BER technology transfer No. 316/2014 ³⁶⁸					
Guidelines on technology transfer ³⁶⁹					
Terms of Reference of the Hearing Officer ³⁷⁰					
Guidelines on fines ³⁷¹					
Inability to pay information note ³⁷²					
Notice on access to file ³⁷³					
Directive on Actions for Damages ³⁷⁴					
Communication on quantifying harm in actions for damages ³⁷⁵					
Proposal Directive to empower NCAs ³⁷⁶					

Notes:

- **EU competition law** includes further Notices, Communications, Decisions or Guidelines on specific aspects. The above is a summary of the *main* competition legislation and not exhaustive.
- **Sectorial legislation (Liberalisation) exists for:** Agriculture, insurance, postal services, professional services, transport, and telecommunications.
- **Horizontal rules (State aid) cover aid to:** SMEs, training, employment, regional, research and development and innovation, environmental, risk capital, rescue and restructuring aid. **Sector specific rules (State aid) cover:** Audio-visual production, broadcasting, electricity (stranded costs), postal services, shipbuilding, steel, broadband, transport, coal. **Specific aid instruments rules (State aid) cover i.a.** State guarantees, public land sales.
- **Provisions on international relations** (competition cooperation agreements, bilateral agreements) exist with e.g. EEA, EU candidate countries and western Balkan countries³⁷⁷.

Provisions potentially relevant in the context of the UK's withdrawal

- [Terms of Reference of the Hearing Officer](#)

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	none	Art. 6(2)

Other relevant provision: Art. 6(2) - the hearing officer may invite representatives of the competent authorities from third countries as observers in the oral hearings in accordance with agreements concluded between the union and the third countries.

- [Merger Regulation](#)

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	none	Art. 24(1)

Other relevant provision: Art. 24(1) - Member States inform the Commission of general difficulties encountered by their undertakings in a third country; the Commission may submit proposals to the Council for an appropriate mandate for negotiation with a third country in regard of obtaining comparable treatment for undertakings if that third country do not grant undertakings with their seat or principal field in the Community a treatment comparable to that the Community granted to undertakings from that country.

- [General BER \(No. 651/2014\) in the area of State aid](#)

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	none	Art. 2(130)

Other relevant provision: Art. 2(130) - the definition of energy infrastructure comprises physical equipment or facility which is not only located within the union but also linking the union to third countries. This affects the exemption from the notification requirement regarding investment aid for energy infrastructure in Art. 48.

11. TAXATION

Direct Taxation		Indirect Taxation			Administrative Cooperation
		VAT Expert Group ³⁷⁸			
I + R Directive ³⁷⁹	Merger Directive ³⁸⁰	VAT Directive ³⁸¹		Excise Duties Directive ³⁸²	Tax Recovery Directive ³⁸³
		VAT refund EU business Directive ³⁸⁴	VAT refund non EU Business Directive ³⁸⁵	Eurovignette Directive ³⁸⁶	
	Parent company and Subsidiary Directive ³⁸⁷	VAT free importation Directive ³⁸⁸	Tax free Private Consignments Directive ³⁸⁹	Indirect Taxes on Raising Capital Directive ³⁹⁰	<i>Fiscalis 2020 Regulation</i> ³⁹¹
		VAT free Travellers Allowances Directive ³⁹²	VAT Minimum Standard Rate Directive ³⁹³	Energy Taxation Directive (ETD) ³⁹⁴	Administrative Cooperation Directive ³⁹⁵
Proposal I + R Directive [recast] ³⁹⁶	Proposal Enhanced Cooperation in FTT Directive ³⁹⁷	Proposal Standard VAT Return Directive ³⁹⁸	Proposal Generalised Reverse Charge Mechanism Directive ³⁹⁹		
Proposal CCCTB Directive ⁴⁰⁰		Proposal Treatment of Vouchers Directive ⁴⁰¹	Proposal Modernising VAT for cross-border B2C e-commerce (VAT Obligations for Supplies of Services/Goods) Directive ⁴⁰²		
Proposal CCTB Directive ⁴⁰³	Convention on elimination of double taxation of adjustment of profits of associated enterprises ⁴⁰⁴	Proposal Directive modernising VAT for Insurance and Financial Services* ⁴⁰⁵	Proposal Modernising VAT for cross-border B2C e-commerce (Combating Fraud in the Field of VAT) Regulation ⁴⁰⁶		
Communication (2016) ⁴⁰⁷ corporate tax system	Recommendation (2011) relief for double taxation of inheritances ⁴⁰⁸		Proposal VAT applied to books, newspapers and periodicals Directive ⁴⁰⁹	Consultation (2017) excise duty - harmonisation & simplification ⁴¹⁰	
Recommendation (2012) on tax havens ⁴¹¹	Recommendation (2012) on aggressive tax planning ⁴¹²	Communication (2011) on the future of VAT ⁴¹³	Action Plan (2012) fight against Tax Fraud and Tax Evasion ⁴¹⁴	Consultation (2017) excise duties alcohol and alcoholic beverages ⁴¹⁵	

Notes:

- The **Savings Taxation Directive** was repealed⁴¹⁶ due to a significant overlap with other legislation adopted in 2014 in this field. This overlap was, amongst others, created by Directive 2014/107/EU amending Council Directive 2011/16/EU with provisions on the mandatory **automatic exchange of information between tax administrations**.
- The proposal for Country-by-Country Reporting (CbCR) Directive⁴¹⁷ (amending the Accounting Directive) was adopted following the discussions on tax transparency.
- The **Administrative Cooperation Directive** was extended multiple times to financial account information, to information on cross-border tax rulings and advance pricing arrangements, to country-by-country reporting, as regards the access by tax authorities to anti-money laundering information as well as by a number of implementing measures⁴¹⁸.
- On 17 June 2015, the Commission published an **Action Plan**⁴¹⁹ for fair and efficient corporate taxation in the EU. The Action Plan sets to reform the corporate tax framework in the EU, in order to tackle tax abuse, ensure sustainable revenues, increase transparency and support a better business environment in the Single Market. This may result also in further proposals to extend administrative cooperation.
- On 25 October 2016, the Commission published the **Communication**⁴²⁰ in regard to the reformation of the corporate tax system.
- **VAT**: Amendments to the VAT Directive 2006/112/EC in 2013 established a specific measure to tackle so-called carousel fraud, the **Quick reaction mechanism (QRM) against VAT fraud**.⁴²¹ From 1 January 2015 businesses comply with new *VAT place of supply rules* for broadcasting, telecommunications and electronic services for which an optional Mini One Stop Shop (**MOSS**) system has been established.⁴²²
- The [Fiscalis 2020 Regulation](#) is a tax administration cooperation programme, which is intended to support the cooperation and exchange of information between tax authorities of Member States.

Provisions potentially relevant in the context of the UK's withdrawal

- [Administrative Cooperation Directive](#)

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	none	Art. 19 Art. 24

Other relevant provisions: Art. 19 - extension of wider cooperation provided to a third country; Art. 24 - exchange of information with third countries.

- [Proposal CCCTB Directive](#)

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	none	Art. 2(2) Art. 27 Art. 73

Other relevant provisions: Art. 2(2) - the Directive shall also apply to a company that is established under the laws of a third country in respect of its permanent establishments situated in on or more Member States where the company meets certain conditions laid down in this Directive. It shall be suffice that the third-country company has a similar form to one of the company forms in Annex 1 of this Directive. The Commission shall adopt annually a list of third-country company forms that are similar to the company forms listed in this Annex; Art. 27 - rules for determining transparency in the case of third-country entities; Art. 73 - controlled foreign company legislations.

- [Proposal CCTB Directive](#)

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	none	Art. 2(2) Art. 53 Art. 54 Art. 61 and 61a

Other relevant provisions: Art. 2(2) - the Directive shall also apply to a company that is established under the laws of a third country in respect of its permanent establishments situated in on or more Member States where the company meets certain conditions laid down in this Directive. It shall be suffice that the third-country company has a similar form to one of the company forms in Annex 1 of this Directive. The Commission shall adopt annually a list of third-country company forms that are similar to the company forms listed in this Annex; Art. 53 - switch-over; Art. 54 - computation of income of a foreign permanent establishment; Art. 61 and 61a - hybrid mismatch; Art. 63 - determining transparency in the case of third-country entities.

- [VAT Directive](#)

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	none	Art. 7(1) Art. 32 Art. 396

Other relevant provisions: Art. 7(1) - in view of the conventions and treaties concluded with France, the UK shall not be regarded, for the purpose of the application of this Directive, as a third country; Art. 32 - if dispatch or transport of the goods begins in a third territory of third country, both the place of supply by the importer designated or recognised under Art. 201 is liable for payment of VAT and the place of any subsequent supply shall be deemed to be within the Member State

of importation of the goods; Art. 396 - international agreements, the Council, acting unanimously on a proposal from the Commission, may authorise any Member State to conclude with a third country an agreement which may contain derogations from this Directive.

- **VAT free Travellers Allowances Directive**

The whole Directive would be applicable if the United Kingdom is no longer a Member State of the European Union.

- **VAT refund non EU Business Directive**

The whole Directive would be applicable if the United Kingdom is no longer a Member State of the European Union.

- **Proposal Modernising VAT for cross-border B2C e-commerce Directive**

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	none	Art. 369l to 369n, 369r

Other relevant provisions: Art. 369l to 369n, 369r - special scheme for distance sales of goods imported from third countries or third territories.

- **Indirect Taxes on Raising Capital Directive**

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	none	Art. 3 Art. 10(3)

Other relevant provisions: Art. 3 - contributions of capital, UK as a potential third country would still fall under the scope of application of the Directive under certain circumstances; Art. 10(3) - transactions subject to capital duty and distribution of taxing rights and the impacts of a third-country seat of the effective management of a capital company.

- **Fiscalis 2020 Regulation**

Fiscalis 2020 should be open to the participation of acceding and candidate countries and to potential candidate countries and partner countries of the European Neighbourhood Policy. In order to improve administrative cooperation and supporting the fight against tax fraud, tax evasion and aggressive tax planning, it may be useful for the Union to conclude agreements with third countries in order to allow those countries to use the Union components of the European Information System to support a secure exchange of information between them and the Member States in the framework of bilateral tax agreements.

12. COMMERCE AND COMPANY LAW

Informal Company Law Expert Group ⁴²³					
Takeover bids Directive (TBD) * ⁴²⁴	Shareholder Rights Directive* ⁴²⁵	Corporate Governance Directive ⁴²⁶	European Company (SE) Regulation ⁴²⁷	Cross-border Mergers Directive (CBM) ⁴²⁸	Sixth Council Directive on the Division of public limited liability companies ⁴²⁹
			European Company (SE) Directive ⁴³⁰		
	Amending Proposal (long-term shareholder engagement) * ⁴³¹		European Cooperative Society (SCE) Regulation ⁴³²	Directive on Mergers of public limited liability companies ⁴³³	
	Proposal Directive single-member private limited liability company (SUP) ⁴³⁴	Proposal Directive regarding certain aspects of company law ⁴³⁵	European Economic Interest Grouping (EEIG) Regulation ⁴³⁶	Directive on Formation of public limited liability companies ⁴³⁷	Proposal insolvency proceedings Directive* ⁴³⁸
Commission Recommendation on the quality of corporate governance reporting (2014) ⁴³⁹	Action Plan (2012) European Company Law and Corporate Governance ⁴⁴⁰	Green Paper (2011) on Corporate Governance ⁴⁴¹			

Notes:

- Commerce & Company Law in general are dealt with by the **JURI Committee**, company matters concerning financial services also concern ECON's ambit.
- Company Law Directives were previously **numbered in the title**, see endnote⁴⁴².
- The **Proposal European Private Company Regulation (SPE)**⁴⁴³ has been recently withdrawn by the Commission (2014/C 153/03).
- **CRD IV** (chapter 1.) refers to certain corporate governance aspects of credit institutions (especially remuneration aspects).
- **AIFMD** (chapter 3.) refers to certain corporate governance aspects of alternative investment funds (especially remuneration aspects).
- **Solvency II** (chapter 4.) covers corporate governance aspects of insurance firms.
- **MiFID & MiFID II** (chapter 2.) cover corporate governance of investment firms.
- **Green Paper on long-term financing of the European economy** (see chapter 2.) refers to certain aspects of accounting, corporate governance and reporting.
- **Commission Communication 'Small Business Act'**⁴⁴⁴ aims to create favourable conditions for growth and sustainable competitiveness of European SMEs.
- **Commission Recommendation on Financial services sector pay**⁴⁴⁵ sets out principles on remuneration of risk-taking staff in financial institutions.
- **Commission Recommendation on Directors' pay**⁴⁴⁶ sets out further guidance on structure and determination of directors' remuneration.

Provisions potentially relevant in the context of the UK's withdrawal

- On **Amending Proposal (long-term shareholder engagement)** see chapter 2. Securities Markets and Investment Firms.
- [Proposal Directive regarding certain aspects of company law](#)

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	none	Art. 28(1) Art. 35(1) Art. 66(1) Art. 117 ff.

Other relevant provisions: Art. 28(1) - relevant documents and particulars relating to a branch established in a Member State by a company governed by the law of another Member State shall be disclosed according to the law of the Member State of the branch in the register; Art 35(1) - relevant documents and particulars relating to a branch established in a Member State by a company which is governed by the law of a third country and which legal form is comparable with the types of company listed in Annex II, shall be disclosed according to the law of the Member State of the branch in the register; Art. 66(1) Sub-para 2 - shares of a public limited liability company which are subscribed, acquired or held by a company governed by the law of a third country with a comparable legal form to those listed in Annex II and in which the public limited liability company directly or indirectly holds a majority of the voting rights or can exercise a dominant influence shall be regarded as having been effected by the public limited liability company itself; Art. 117ff. - rules regarding cross-border mergers of limited liability companies within the Union.

- [SE Regulation](#)

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	none	Art. 2(5)

Other relevant provision: Art. 2(5) - a Member State can provide that a company with a head office outside of the Union can participate in the formation of an SE.

- [SCE Regulation](#)

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	None	Art. 2(2)

Other relevant provision: Art. 2(2) - a Member State can provide that a legal body with a head office outside of the Union can participate in the formation of an SCE if the legal body is formed under the law of a Member State, has its registered office in that Member State and has a link to that Member State's economy.

13. ACCOUNTING AND AUDITING

Accounting Regulatory Committee (ARC) ⁴⁴⁷				Audit Regulatory Committee (AuRC) ⁴⁴⁸	
European Financial Reporting Advisory Group (EFRAG) ⁴⁴⁹				Committee of European Auditing Oversight Bodies (CEAOB) ⁴⁵⁰	
Accounting and IAS		Banks and Insurance		Transparency	Statutory Audit
11 th Cross-border Branches disclosure Directive ⁴⁵¹		Bank Branches Obligations Directive ⁴⁵²	Annual Accounts and consolidated Accounts of Banks Directive* ⁴⁵³	Transparency Directive* ⁴⁵⁴	Statutory Audit Directive (SAD II) ⁴⁵⁵
International Accounting Standards Application Regulation (IAS) ⁴⁵⁶	Regulation adopting IAS Regulation ⁴⁵⁷	Insurance Accounts Directive* ⁴⁵⁸	Prospectus Directive* ⁴⁵⁹	Regulation on specific Requirements for Statutory audit of Public Interest Entities ⁴⁶⁰	
PRS Alignment Omnibus ⁴⁶¹					
Accounting Directive* ⁴⁶²					
Proposal Country-by-Country Reporting (CbCR) Directive ⁴⁶³					
Amending Proposal (long-term shareholder engagement)* ⁴⁶⁴					
Union programme financial reporting and auditing Regulation ⁴⁶⁵					
EP Report on IAS Evaluation (2016), Stolojan Report ⁴⁶⁶					

Notes:

- The present 'regulatory procedure with scrutiny' (**RPS**) is proposed to be aligned with the procedure described in Art. 290 and 291 TFEU; if this alignment is adopted, the Accounting Regulatory Committee (ARC) will be replaced by an expert group.
- Decision No 716/2009/EC of the European Parliament and of the Council established a Community programme to support specific activities in the field of financial services, financial reporting and auditing. On the basis of that Decision, the European Financial Reporting Advisory Group (EFRAG), the International Financial Reporting Standards Foundation (the IFRS Foundation), which is the legal successor to the International Accounting Standards Committee Foundation (IASCF), and the Public Interest Oversight Board (PIOB) benefited from Union co-financing in the form of operating grants until 31 December 2013. This financing has been extended until 2020 by a Regulation.
- The **Accounting Directive** repeals the Fourth Directive 78/660/EEC on the annual accounts of certain types of companies and the Seventh Directive 83/349/EEC on consolidated accounts (both initially company law directives, see chapter 12).
- The **Corporate Governance Directive** (see previous chapter) also refers to some accounting aspects.
- The **Prospectus Directive** (see chapter 2.) covers the disclosure of certain financial data when securities are offered to the public or are admitted to trading.
- The EU has adopted a **mechanism to determine which third-country accounting rules are equivalent to those of the EU**, usually by the adoption of **implementing acts**, [e.g. Commission Regulation (EC) No 1569/2007 on equivalence mechanism,⁴⁶⁷ Commission Directive 2007/14/EC implementing Directive 2004/109/EC;⁴⁶⁸ Commission Regulation (EC) No 809/2004 implementing Directive 2003/71/EC (also regarding equivalence of certain third-country's national accounting standards and IFRS);⁴⁶⁹ Commission Decision 2008/961/EC on the use by third-countries' issuers of certain third-country's national accounting standards and IFRS.] Commission implementing decision (EU) 2016/1223 on the equivalence of certain third-country auditors and audit entities; Commission implementing Decision (EU) 2016/115 on the equivalence of US auditors and audit entities.⁴⁷⁰
- For more details on **third-countries' equivalence and convergence of accounting standards** see http://ec.europa.eu/finance/company-reporting/third-countries/index_en.htm.
- For more details on **relation with third countries in regard to auditing**, see https://ec.europa.eu/info/business-economy-euro/company-reporting-and-auditing/auditing-companies-financial-statements_en#relations-with-third-countries.
- On 3 February 2016, the EIOPA published a Consultation Paper on the proposal for the Guidelines on facilitating an effective dialogue between insurance supervisors and auditors.⁴⁷¹
- For the thresholds defining SMEs see *Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (notified under document number C(2003) 1422)*; OJ L 124, 20.5.2003, p. 36; <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32003H0361&from=EN>

Provisions potentially relevant in the context of the UK's withdrawal

- On **Prospectus Directive**, **Transparency Directive**, and the **Amending Proposal (long-term shareholder engagement)** see chapter 2. Securities Markets and Investment Firms.

- [**Accounting Directive**](#)

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	Art. 46	none

Equivalence provision: Art. 46 - for country-by-country reporting. Equivalence of third-country reporting requirements (see equivalence decision adopted by Canada).

- [**SAD II**](#)

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	Art. 46(2) Art. 47(3)	none

Equivalence provisions: Art. 46(2) - for the equivalence of the audit framework sets the framework for a possible reliance on a third-country oversight system in Europe, subject to reciprocity (see equivalence decisions adopted by Abu Dhabi, Australia, Brazil, Canada, China, Dubai, Guernsey, Indonesia, Isle of Man, Japan, Jersey, South Korea, Malaysia, Mauritius, New Zealand, Singapore, South Africa, Switzerland, Thailand, Taiwan, Turkey and US); Art. 46(2) - for the transitional period the Commission may decide that the requirement of equivalence referred to in Art. 45(1) is not complied with, it may allow the third-country auditors and third-country audit entities concerned to continue their audit activities in accordance with the requirements of the relevant Member State during the transitional period (see equivalence decisions adopted by Bermuda, Caymans, Egypt and New Zealand); Art. 47(3) - for adequacy of the audit framework stipulates that third countries may be recognised as adequate to cooperate with the competent authorities of Member States on the exchange of audit working papers or other documents held by statutory auditors and audit firms (see equivalence decision adopted by Australia, Brazil, Canada, Dubai, Guernsey, Indonesia, Isle of Man, Japan, Jersey, South Korea, Malaysia, South Africa, Switzerland, Thailand, Taiwan and US).

- [**11th Cross-border Branches disclosure Directive**](#)

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	none	Art. 7 to 10

Other relevant provisions: Art. 7 to 10 - branches of companies from third countries are obliged to disclose certain information relating to the company.

- [**Bank Branches Obligations Directive**](#)

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	none	Art. 3

Other relevant provision: Art. 3 - provisions relating to branches of credit institutions and financial institutions having their head offices in non-members countries.

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14. OTHER AREAS (CIVIL AND PROCEDURAL LAW, DATA PROTECTION, INSOLVENCY)

Civil and Procedural Law		Data Protection		Insolvency	
<i>Brussels Ia Regulation</i> ⁴⁷²	<i>Rome I Regulation</i> ⁴⁷³	Data Retention Directive ⁴⁷⁴	Directive on Privacy and Electronic Communications ⁴⁷⁵	[<i>Insolvency Proceedings Regulation</i> ⁴⁷⁶]	SFD* ⁴⁷⁷
<i>European Enforcement Order Regulation</i> ⁴⁷⁸					
<i>European Order for Payment Procedure Regulation</i> ⁴⁷⁹	<i>Rome II Regulation</i> ⁴⁸⁰	<i>Data Protection Regulation</i> ⁴⁸¹	<i>Data Protection Directive</i> ⁴⁸²	<i>Insolvency Proceedings Regulation (recast)</i> ⁴⁸³	Solvency II* ⁴⁸⁴
<i>Combating late payment Directive</i> ⁴⁸⁵	<i>Small Claims Procedure Regulation</i> * ⁴⁸⁶		<i>General Data Protection Regulation (GDPR)</i> ⁴⁸⁷		CIWUD* ⁴⁸⁸
Proposal contracts for supply of digital content Directive* ⁴⁸⁹	<i>European Account Preservation Order Regulation</i> ⁴⁹⁰	Law Enforcement Data Protection Directive ⁴⁹¹	<i>e-Privacy Directive</i> ⁴⁹²	Proposal insolvency proceedings Directive* ⁴⁹³	BRRD* ⁴⁹⁴
Proposal contracts for the online and other distance sales of goods Directive* ⁴⁹⁵		<i>Proposal Regulation on personal data processing by Union institutions</i> ⁴⁹⁶	<i>Proposal Regulation private life and protection of personal data</i> ⁴⁹⁷	Communication on business failure and insolvency ⁴⁹⁸	
		Communication on Exchanging and Protecting Personal Data in a Globalised World ⁴⁹⁹	EU-U.S. Privacy Shield Framework ⁵⁰⁰	Recommendation on business failure and insolvency ⁵⁰¹	

Notes:

- **Insolvency: SRM Regulation** (displayed in chapter 1.) refers to decision-making structures and authority powers as regards recovering or resolution of banks.
- The General Data Protection Regulation (GDPR) (EU) 2016/679 repeals Directive 95/46/EC (Data Protection Directive⁵⁰²) by 25 May 2018.
- The Insolvency Proceedings Regulation (recast) repeals Council Regulation (EC) No 1346/2000 (Insolvency Proceedings Regulation⁵⁰³) by 26 June 2017.
- The Data Protection Regulation will possibly be repealed by the Proposal for a Regulation on personal data processing by Union institutions.
- The Directive on Privacy and Electronic Communications will possibly be repealed by the Proposal for a private life and protection of personal data.

Provisions potentially relevant in the context of the UK's withdrawal

- On **CIWUD** and **BRRD** see chapter 1. Banking; on **Solvency II** see chapter 4. Insurance and Occupational Pensions; and on **Small Claims Procedure Regulation** see chapter 6. Consumer Protection in Financial Services.

- [**Brussels Ia Regulation**](#)

After Brexit, Art. 39 of Brussels Ia Regulation would no longer be applicable regarding the enforceability of UK-judgements in Member States and vice versa. It may come to a resurgence of the 1968 Brussels Convention in relation to some Member States. However, this Convention comprises a cumbersome exequatur proceeding which was abolished by the Brussels Ia Regulation. In relation to other Member States, the UK would depend on bilateral treaties. UK may also join the Lugano Convention on jurisdiction and enforcement of judgements in civil and commercial matters between the EFTA states.

- [**European Enforcement Order Regulation**](#)

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	none	Art. 5

Other relevant provision: Art. 5 - a judgement certified as a European enforcement order in one Member State shall be recognised and enforced in other Member States without the need for a declaration of enforceability or a possibility of opposing its recognition. After Brexit, this provision would no longer be applicable in regard of the UK.

- [**European Order for Payment Procedure Regulation**](#)

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	none	Art. 19

Other relevant provision: Art. 19 - a European order for payment enforceable in the Member State of origin shall be recognised and enforceable in other Member States without the need for a special declaration of enforceability or a possibility of opposing its recognition. After Brexit, this provision would no longer be applicable in regard of the UK.

- [**Rome I Regulation**](#)

After Brexit, in absence of the applicability of Rome I Regulation regarding contractual obligations in civil and commercial matters, the 1980 Rome Convention⁵⁰⁴, which was replaced by the Rome I Regulation (Art. 24), may be applicable again.

- [**European Account Preservation Order Regulation**](#)

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	none	Art. 22

Other relevant provision: Art. 22 - preservation orders issued in one Member State shall be recognised and enforceable in other Member States without special procedures or the need for a declaration of enforceability. After Brexit, this provision would no longer be applicable in regard of the UK.

- **Data Protection Directive**

Passporting Provisions	Adequacy Provisions	Other relevant Provisions
none	Art. 25(4) and (6)	none

Adequacy provisions: Art. 25(4) and (6) - Commission decision regarding the insurance of an adequate level of protection by a third country (full: Andorra, Argentina, Faeroe Islands, Guernsey, Israel, Isle of Man, Jersey, New Zealand, Switzerland and Uruguay, partial: Canada, United States⁵⁰⁵).

- **Data Protection Regulation**

Passporting Provisions	Adequacy Provisions	Other relevant Provisions
none	Art. 9(5)	none

Adequacy provision: Art. 9(5) - Commission decision regarding the insurance of an adequate level of protection by a third country.

- **Law Enforcement Data Protection Directive**

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	none	Art. 36(3) Art. 37(1) Art. 38(1) Art. 39(1) Art. 40

Other relevant provisions: Art. 36(3) - Commission decision regarding the insurance of an adequate level of protection by a third country or an international organisation; Art. 37(1) - a transfer of personal data to a third country or international organisation may take place in the absence of a Commission decision pursuant to Art. 36(3) - if specific safeguards are provided; Art. 38(1) - possibility for Member States to allow a transfer of personal data to a third country or an international organisation in the absence of a Commission decision pursuant to Art. 36(3) or appropriate safeguards pursuant to Art. 37(1) under strict conditions; Art. 39(1) - Union law or Member State law may provide in compliance with the other provisions of this Directive, in fulfilment of additional specific strict conditions for competent authorities and without prejudice to any bilateral or multilateral international agreement between Member States and third countries in the field of judicial cooperation in criminal matters and police cooperation, to transfer personal data directly to recipients established in third countries; Art. 40 - the Commission and Member States shall take appropriate measures regarding the development of international cooperation for the protection of personal data.

- **GDPR**

Passporting Provisions	Adequacy Provisions	Other relevant Provisions
none	Art. 45(3)	Art. 45(9) Art. 46(1) Art. 49(1) Art. 50

Adequacy provision: Art. 45(3) - Commission decision regarding the insurance of an adequate level of protection by a third country.

Other relevant provisions: Art. 45(9) - decisions adopted by the Commission on the basis on Art. 25(6) of the Data Protection Directive shall remain in force; Art. 46(1) - in the absence of a Commission decision pursuant to Art. 45(3), a controller or processor may transfer personal data to a third country or international organisation if specific appropriate safeguards are provided; Art. 49(1) - possibility to transfer personal data to third countries or international organisations in the absence of a

Commission decision pursuant to Art. 45(3) or appropriate safeguards pursuant to Art. 46 under strict conditions; Art. 50 - the Commission and supervisory authorities shall take appropriate measures regarding the development of international cooperation for the protection of personal data.

- **Insolvency Proceedings Regulation**

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	none	Art. 16(1) Art. 18(1) Art. 21(1) and (2)

Other relevant provisions: Art. 16(1) - recognition of the judgement opening insolvency proceedings by the competent court of one Member State by all other Member States; Art 18(1) - the insolvency practitioner appointed by the competent court may exercise all powers conferred to it in the law of the Member State of the opening of proceedings in other Member States as long as no other insolvency proceedings have been opened there and no preservation measure to the contrary has been taken there; Art. 21(1) - the publication of a notice of the judgement opening insolvency proceedings in any other Member State may be requested by the liquidator; Art. 21(2) - in each Member State where an establishment of the debtor is located and in which require mandatory publication, the liquidator or any authority empowered shall take all necessary steps to ensure such publication.

- **Insolvency Proceedings Regulation (recast)**

Passporting Provisions	Equivalence Provisions	Other relevant Provisions
none	none	Art. 19(1) Art. 21(1) Art. 28(1)

Other provisions: Art. 19(1) recognition of the judgement opening insolvency proceedings by the competent court of one Member State by all other Member States; Art 21(1) - the insolvency practitioner appointed by the competent court may exercise all powers conferred to it in the law of the Member State of the opening of proceedings in other Member States as long as no other insolvency proceedings have been opened there and no preservation measure to the contrary has been taken there; Art. 28(1) - a notice of the judgement opening insolvency proceedings shall be published in each Member State where an establishment of the debtor is located on request of the insolvency practitioner or the debtor itself.

ENDNOTES / REFERENCES

Note: Where available, links lead to (non-official) **consolidated versions**.

¹ **ECON informal report on enhancing the coherence of EU financial services legislation** (February 2014, PE524.618): 'In light of the transition to a single rule book in financial services across the EU, the ECON Committee believes that it is increasingly important to ensure that legislation fits together seamlessly. The Committee held a public consultation in the first half of 2013 on possible measures to enhance the coherence of EU financial services legislation. The report includes a summary of the responses received and sets out the conclusions the Committee has drawn from the consultation and the steps it intends to take as a result;' <http://www.europarl.europa.eu/document/activities/cont/201402/20140210ATT79138/20140210ATT79138EN.pdf>.

² **EU Mapping: Systematic Overview on Economic and Financial Legislation**, PE 518.770, European Parliament, Brussels, 2014; [http://www.europarl.europa.eu/RegData/etudes/etudes/join/2014/518770/IPOL-ECON_ET\(2014\)518770_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2014/518770/IPOL-ECON_ET(2014)518770_EN.pdf).

³ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (**European Banking Authority**), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (EBA), OJ L 331, 15.12.2010, p. 12; as amended; consolidated version (2014); <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02010R1093-20140819&qid=1481729899037&from=EN>.

⁴ Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring **specific tasks on the European Central Bank** concerning policies **relating to the prudential supervision of credit institutions**, OJ L 287, 29.10.2013, p. 63; <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:287:0063:0089:EN:PDF>.

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¹⁶² See for information on this group https://ec.europa.eu/info/business-economy-euro/banking-and-finance/financial-reforms-and-their-progress/regulatory-process-financial-services/expert-groups-comitology-and-other-committees/european-insurance-and-occupational-pensions-committee_en.

¹⁶³ See <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=2914&Lang=EN> for further information on the **EGMLTF**.

¹⁶⁴ See <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=2287> for information on the setting-up of the **Payment Systems Market Expert Group** and for the Commission Decision of 27.11.2015 amending Commission Decision 20122/C 253/04 of 29 August 2011 setting up a Payment Systems Market Expert Group, in order to extend its period of validity, C(2015) 8262 final, 27.11.2015; <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetailDoc&id=27480&no=1>.

¹⁶⁵ The **Payments Committee** is composed of representatives of EU countries and observers from the European Economic Area (EEA). It helps the European Commission adopt implementing measures of the payment services directive, and other issues linked to payments, https://ec.europa.eu/info/business-economy-euro/banking-and-finance/financial-reforms-and-their-progress/regulatory-process-financial-services/expert-groups-comitology-and-other-committees/payments-committee_en.

¹⁶⁶ The Commission clarified that the **Committee on the Prevention of Money Laundering and Terrorist Financing (CPMLTF)** will continue to exist, but will be convened exclusively on the occasions where Member States will assist the Commission in the exercise of its implementing powers (as a 'comitology Committee'). By contrast, the newly established EGMLTF will replace the CPMLTF as far as its tasks of advising the Commission on the elaboration and implementation of its policy are concerned; http://ec.europa.eu/justice/civil/financial-crime/index_en.htm.

¹⁶⁷ For further description and functioning of the **SEPA Council** see http://ec.europa.eu/internal_market/payments/docs/sepa/council/mandate_en.pdf and https://ec.europa.eu/info/business-economy-euro/banking-and-finance/consumer-finance-and-payments/payment-services/single-euro-payments-area-sepa_en.

¹⁶⁸ Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on **payment services in the internal market** amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC (**PSD**), OJ L 319, 5.12.2007, p. 1; as amended; consolidated version (2009); <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02007L0064-20091207&qid=1482920765196&from=EN>.

¹⁶⁹ Regulation (EU) 2015/751 of the European Parliament and of the Council of 29 April 2015 on **interchange fees for card-based payment transactions (MIFs)**, OJ L 123, 19.5.2015, p. 1; <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015R0751&from=EN>.

¹⁷⁰ Regulation (EC) No 924/2009 of the European Parliament and of the Council of 16 September 2009 on **cross-border payments in the Community** and repealing Regulation (EC) No 2560/2001, OJ L 266, 9.10.2009, p. 11; as amended; consolidated version (2012); <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02009R0924-20120331&qid=1491999420958&from=EN>.

¹⁷¹ Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on **settlement finality in payment and securities settlement systems**, OJ L 166, 11.6.1998, p. 45; as amended by Directive 2009/44/EC; consolidated version (2012); <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:01998L0026-20140917&qid=1492000713020&from=EN>.

¹⁷² Regulation (EC) No 1889/2005 of the European Parliament and of the Council of 26 October 2005 on **controls of cash entering or leaving the Community**, OJ L 309, 25.11.2005, p. 9; <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32005R1889&qid=1396284541537&from=EN>.

¹⁷³ Council Regulation (EC) No 1338/2001 of 28 June 2001 laying down measures necessary for the **protection of the euro against counterfeiting**, OJ L 181, 4.7.2001, p. 6; as amended; consolidated version (2009); <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02001R1338-20090123&qid=1396284583465&from=EN>.

¹⁷⁴ Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on **payment services in the internal market**, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC; <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015L2366&from=EN>.

¹⁷⁵ Proposal for a Regulation of the European Parliament and of the Council on **controls on cash entering or leaving the Union** and repealing Regulation (EC) No 1889/2005, COM(2016) 825 final; http://ec.europa.eu/taxation_customs/sites/taxation/files/com_2016_825_en.pdf.

¹⁷⁶ Regulation (EC) No 1339/2001 of the European Parliament and of the Council of 28 June 2001 on extending the effects of Regulation (EC) No 1338/2001 laying down measures necessary for the **protection of the euro against counterfeiting** to those Member States which have not adopted the euro as their single currency, OJ L 181, 4.7.2001, p. 11, as amended, consolidated version (2009); <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02001R1339-20090211&qid=1493381094660&from=EN>.

¹⁷⁷ Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the **taking up, pursuit and prudential supervision of the business of electronic money institutions** amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC, OJ L 26, 10.10.2009, p. 7; <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32009L0110&from=EN>.

¹⁷⁸ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the **prevention of the use of financial system for the purpose of money laundering or terrorist financing**, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC, OJ L 141, 5.6.2015, p. 73; <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015L0849&from=EN>.

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⁴²³ The **Informal Company Law Expert Group** assists the Commission in the preparation of new company law initiatives. The expertise of its members should help, in particular, to improve existing mechanisms for cross-border mergers and to develop initiatives on cross-border divisions and 'groups of companies'. The Group's focus also included the digitalisation of company law, see for more information http://ec.europa.eu/justice/civil/company-law/index_en.htm.

⁴²⁴ Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on **takeover bids**, OJ L 142, 30.4.2004, p. 12; as amended; consolidated version (2014); <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02004L0025-20140702&qid=1482142757122&from=EN>.

⁴²⁵ Directive 2007/36/EC of the European Parliament and of the Council of 11 July 2007 on the exercise of certain **rights of shareholders in listed companies**, OJ L 184, 14.7.2007, p. 17; as amended; consolidated version (2017); <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02007L0036-20170609&qid=1504254720090&from=EN>.

⁴²⁶ Directive 2006/46/EC of the European Parliament and of the Council of 14 June 2006 amending Council Directives 78/660/EEC on the annual accounts of certain types of companies, 83/349/EEC on consolidated accounts, 86/635/EEC on the annual accounts and consolidated accounts of banks and other financial institutions and 91/674/EEC on the annual accounts and consolidated accounts of insurance undertakings (**Corporate Governance Directive**), OJ L 224, 16.8.2006, p. 1; <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32006L0046&from=EN>.

⁴²⁷ Council Regulation (EC) No 2157/2001 of 8 October 2001 on the **Statute for a European company (SE)**, OJ L 294, 10.11.2001, p. 1; as amended; consolidated version (2013); <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02001R2157-20130701&qid=1483379470282&from=EN>.

⁴²⁸ Directive 2005/56/EC of the European Parliament and of the Council of 26 October 2005 on **cross-border mergers of limited liability companies**, OJ L 310, 25.11.2005, p. 1; as amended; consolidated version (2014); <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02005L0056-20140702&qid=1483379548300&from=EN>.

⁴²⁹ Sixth Council Directive 82/891/EEC of 17 December 1982 based on Article 54 (3) (g) of the Treaty, concerning the **division of public limited liability companies**, OJ L 378, 31.12.1982, p. 47; as amended; consolidated version (2014); <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:01982L0891-20140702&from=EN>.

⁴³⁰ Council Directive 2001/86/EC of 8 October 2001 supplementing the Statute for a European company with regard to **the involvement of employees**, OJ L 294, 10.11.2001, p. 22; <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32001L0086&qid=1484573107568&from=EN>.

⁴³¹ Proposal for a Directive of the European Parliament and of the Council amending Directive 2007/36/EC as regards the encouragement of **long-term shareholder engagement** and Directive 2013/34/EU as regards certain elements of the **corporate governance statement**, COM(2014) 213 final; http://eur-lex.europa.eu/resource.html?uri=cellar:59fccf6c-c094-11e3-86f9-01aa75ed71a1.0003.01/DOC_1&format=PDF.

⁴³² Council Regulation (EC) No 1435/2003 of 22 July 2003 on the Statute for a **European Cooperative Society (SCE)**, OJ L 207, 18.8.2003, p. 1; as amended; consolidated version (2003); <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02003R1435-20030821&qid=1483380102253&from=EN>.

⁴³³ Directive 2011/35/EU of the European Parliament and of the Council of 5 April 2011 concerning **mergers of public limited liability companies**, OJ L 110, 29.4.2011, p. 1; as amended; consolidated version (2014); <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02011L0035-20140702&qid=1483380225473&from=EN>.

⁴³⁴ Proposal for a Directive of the European Parliament and of the Council on **single-member private limited liability companies**, COM(2014) 212 final; http://eur-lex.europa.eu/resource.html?uri=cellar:100dbdec-c08b-11e3-86f9-01aa75ed71a1.0002.01/DOC_1&format=PDF; Annex 1 http://eur-lex.europa.eu/resource.html?uri=cellar:100dbdec-c08b-11e3-86f9-01aa75ed71a1.0002.01/DOC_2&format=PDF; Annex 2; http://eur-lex.europa.eu/resource.html?uri=cellar:100dbdec-c08b-11e3-86f9-01aa75ed71a1.0002.01/DOC_3&format=PDF.

⁴³⁵ Proposal for a Directive of the European Parliament and of the Council relating to **certain aspects of company law** (codification), COM(2015) 616 final; http://eur-lex.europa.eu/resource.html?uri=cellar:77b3493c-99a5-11e5-b3b7-01aa75ed71a1.0006.01/DOC_1&format=PDF; Annexes 1 to 4; http://eur-lex.europa.eu/resource.html?uri=cellar:77b3493c-99a5-11e5-b3b7-01aa75ed71a1.0006.01/DOC_2&format=PDF.

⁴³⁶ Council Regulation (EEC) No 2137/85 of 25 July 1985 on the **European Economic Interest Grouping (EEIG)**, OJ L 199, 31.7.1985, p. 1; <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31985R2137&qid=1483380410690&from=EN>.

⁴³⁷ Directive 2012/30/EU of the European Parliament and of the Council of 25 October 2012 on coordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 54 of the Treaty on the Functioning of the European Union, in respect of the **formation of public limited liability companies** and the maintenance and alteration of their capital, with a view to making such safeguards equivalent, OJ L 315, 14.11.2012, p. 74; as amended, consolidated Version (2014); <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02012L0030-20140702&from=EN>.

⁴³⁸ Proposal for a Directive of the European Parliament and of the Council on **preventive restructuring frameworks, second chance and measures to increase the efficiency of restructuring, insolvency and discharge procedures** and amending Directive 2012/30/EU, COM(2016) 723 final; http://ec.europa.eu/information_society/newsroom/image/document/2016-48/proposal_40046.pdf.

⁴³⁹ Commission Recommendation of 9 April 2014 on the quality of **corporate governance reporting** ('comply or explain'), OJ L 109, 12.4.2014, p. 43; <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014H0208&from=EN>.

⁴⁴⁰ Communication from the **Commission to the European Parliament**, the Council, the European Economic and Social Committee and the Committee of the Regions – **Action Plan: European company law and corporate governance** – a modern legal framework for more engaged shareholders and sustainable companies, COM(2012) 740 final; <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52012DC0740&from=EN>.

⁴⁴¹ Green Paper The EU **Corporate Governance** framework, COM(2011) 164 final; <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52011DC0164&from=EN>.

⁴⁴² The initial order was as follows:

1. Directive 2009/101/EC of the European Parliament and of the Council of 16 September 2009 on coordination of safeguards which, for the protection of the interests of members and third parties, are required by Member States of companies within the meaning of the second paragraph of Article 48 of the Treaty, with a view to making such safeguards equivalent (**before: First Council Directive 68/151/EEC of 9 March 1968** on co-ordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 58 of the Treaty, with a view to making such safeguards equivalent throughout the Community), OJ L 258, 1.10.2009, p. 11; as amended; consolidated Version (2013); <http://eur-lex.europa.eu/legal-content/EN/AUTO/?uri=CELEX:02009L0101-20130701&qid=1400827790060>;

2. Directive 2012/30/EU of the European Parliament and of the Council of 25 October 2012 on coordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 54 of the Treaty on the Functioning of the European Union, in respect of the formation of public limited liability companies and the **maintenance and alteration of their capital**, with a view to making such safeguards equivalent (**before: Second Council Directive 77/91/EEC** of 13 December 1976 on coordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second

paragraph of Article 58 of the Treaty, in respect of the formation of public limited liability companies and the maintenance and alteration of their capital, with a view to making such safeguards equivalent), OJ L 315, 14.11.2012, p. 74; as amended, consolidated Version (2014); <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02012L0030-20140702&from=EN>.

3. Directive 2011/35/EU of the European Parliament and of the Council of 5 April 2011 concerning mergers of public limited liability companies (before: Third Council Directive 78/855/EEC of 9 October 1978 based on Article 54 (3) (g) of the Treaty concerning mergers of public limited liability companies), OJ L 110, 29.4.2011, p. 1; <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011L0035&qid=1396287067411&from=EN>;

4. Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (before: Fourth Council Directive 78/660/EEC of 25 July 1978 based on Article 54 (3) (g) of the Treaty on the annual accounts of certain types of companies), OJ L 182, 29.6.2013, p. 19; as amended; consolidated version (2014); <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013L0034-20141211&qid=1493389476601&from=EN>;

5. Proposal for a Fifth Council Directive based on Article 54 of the EEC Treaty concerning the structure of public limited companies and the powers and obligations of their organs (failed 1991);

6. Sixth Council Directive 82/891/EEC of 17 December 1982 based on Article 54 (3) (g) of the Treaty, concerning the division of public limited liability companies, OJ L 378, 31.12.1982, p. 4; as amended; consolidated Version (2014); <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:01982L0891-20140702&qid=1493389751435&from=EN>;

7. Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (before: Seventh Council Directive 83/349/EEC of 13 June 1983 based on the Article 54 (3) (g) of the Treaty on consolidated accounts), OJ L 182, 29.6.2013, p. 19; as amended; consolidated version (2014); <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02006L0043-20140616&qid=1492526984000&from=EN>;

8. Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC (before: Eighth Council Directive 84/253/EEC of 10 April 1984 based on Article 54 (3) (g) of the Treaty on the approval of persons responsible for carrying out the statutory audits of accounting documents), OJ L 157, 9.6.2006, p. 87; as amended; consolidated Version (2014); <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02006L0043-20140616&qid=1492526984000&from=EN>;

9. Proposal for a Ninth Council Directive based on Article 54(3)(g) of the EEC Treaty on Links Between Undertakings and, in particular, on Groups (failed 1984);

10. Directive 2005/56/EC of the European Parliament and of the Council of 26 October 2005 on cross-border mergers of limited liability companies, OJ L 310, 25.11.2005, p. 1; as amended; consolidated version (2014); <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02005L0056-20140702&qid=1492527084509&from=EN>; Council Regulation (EC) No 2157/2001 of 8 October 2001 on the **Statute for a European company (SE)**; OJ L 294, 10.11.2001, p. 1; as amended; consolidated Version (2013); <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02001R2157-20130701&from=EN>;

Council Directive 2001/86/EC of 8 October 2001 **supplementing the Statute for a European company with regard to the involvement of employees,** OJ L 294, 10.11.2001, p. 22; <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32001L0086&from=EN>; Directive 2007/63/EC of the European Parliament and of the Council of 13 November 2007 amending Council Directives 78/855/EEC and 82/891/EEC as regards the **requirement of an independent expert's report on the occasion of merger or division of public limited liability companies,** OJ L 300, 17.11.2007, p. 47; <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32007L0063&from=EN>;

11. Eleventh Council Directive 89/666/EEC of 21 December 1989 concerning disclosure requirements in respect of branches opened in a Member State by certain types of company governed by the law of another State, OJ L 395, 30.12.1989, p. 36; as amended; consolidated Version (2012); <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:01989L0666-20120706&from=EN>;

12. Directive 2009/102/EC of the European Parliament and of the Council of 16 September 2009 in the area of company law on single-member private limited liability companies (before: Twelfth Council Company Law Directive 89/667/EEC of 21 December 1989 on single-member private limited-liability companies), OJ L 258, 1.10.2009, p. 20; as amended; consolidated Version (2013); <http://eur-lex.europa.eu/legal-content/EN/AUTO/?uri=CELEX:02009L0102-20130701>;

13. Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids, OJ L 142, 30.4.2004, p. 12; as amended; consolidated version (2014); <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02004L0025-20140702&qid=1492527414106&from=EN>;

14. Proposal for a Fourteenth Company Law Directive on the cross-border transfer of the registered office of limited companies (refused 2007);

A list of legislative acts in the area of company law is available at http://ec.europa.eu/justice/civil/company-law/eu-company-law/index_en.htm.

⁴⁴³ Proposal for a Council Regulation on the **Statute for a European private company (SPE)**, COM(2008) 396 final; <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52008PC0396&qid=1396282853801&from=EN>; withdrawn, see Withdrawal of obsolete Commission proposals, 2014/C 153/03, OJ C 153, 21.5.2014, p. 3; <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C:2014:153:FULL&from=EN>.

⁴⁴⁴ Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions – Think Small First – A ‘**Small Business Act**’ for Europe, COM(2008) 394 final; <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52008DC0394&qid=1396283173092&from=EN>.

⁴⁴⁵ 2009/384/EC: Commission Recommendation of 30 April 2009 on remuneration policies in the **financial services sector**, OJ L 120, 15.5.2009, p. 22; <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32009H0384&from=EN>.

⁴⁴⁶ 2009/385/EC: Commission Recommendation of 30 April 2009 complementing Recommendations 2004/913/EC and 2005/162/EC as regards the **regime for the remuneration of directors of listed companies**, OJ L 120, 15.5.2009, p. 28; <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:120:0028:0031:EN:PDF>.

⁴⁴⁷ See http://ec.europa.eu/finance/company-reporting/committees/arc/index_en.htm or https://ec.europa.eu/info/business-economy-euro/banking-and-finance/financial-reforms-and-their-progress/regulatory-process-financial-services/expert-groups-comitology-and-other-committees/accounting-regulatory-committee_en for information on the setting-up of this group.

⁴⁴⁸ See http://ec.europa.eu/finance/auditing/committee/index_en.htm for information on the setting-up of this group.

⁴⁴⁹ See for information on the setting-up of this group http://ec.europa.eu/finance/company-reporting/committees/efrag/index_en.htm or <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=3081>.

⁴⁵⁰ See for information on this group https://ec.europa.eu/info/business-economy-euro/banking-and-finance/financial-reforms-and-their-progress/regulatory-process-financial-services/expert-groups-comitology-and-other-committees/committee-european-auditing-oversight-bodies_en

⁴⁵¹ Eleventh Council Directive 89/666/EEC of 21 December 1989 concerning **disclosure requirements in respect of branches opened in a Member State by certain types of company governed by the law of another State**, OJ L 395, 30.12.1989, p. 36; as amended; consolidated Version (2012); <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:01989L0666-20120706&from=EN>.

⁴⁵² Council Directive 89/117/EEC of 13 February 1989 on the **obligations of branches** established in a Member State of credit institutions and financial institutions having their head offices outside that Member State regarding the publication of annual accounting documents, OJ L 44, 16.2.1989, p. 40; <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31989L0117&qid=1396003555591&from=EN>.

⁴⁵³ Council Directive 86/635/EEC of 8 December 1986 on the **annual accounts and consolidated accounts of banks** and other financial institutions, OJ L 372, 31.12.1986, p. 1; as amended; consolidated version (2014); <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02006L0043-20140616&from=EN>.

⁴⁵⁴ Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonization of **transparency** requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC, OJ L 390, 31.12.2004, p. 38; as amended; consolidated version (2013); <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02004L0109-20131126&from=EN>.

⁴⁵⁵ Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on **statutory audits of annual accounts and consolidated accounts**, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC OJ L 157, 9.6.2006, p. 87; as amended; consolidated version (2014); <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02006L0043-20140616&qid=1493312139960&from=EN>.

⁴⁵⁶ Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the **application of international accounting standards**, OJ L 243, 11.9.2002, p. 1; as amended;

consolidated version (2008); <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02002R1606-20080410&from=EN>.

⁴⁵⁷ **Commission Regulation (EC) No 1126/2008 of 3 November 2008 adopting certain international accounting standards** in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council, OJ L 320, 29.11.2008, p. 1; as amended; consolidated version (2016); <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02008R1126-20160101&qid=1493382675914&from=EN>.

⁴⁵⁸ Council Directive 91/674/EEC of 19 December 1991 on the **annual accounts and consolidated accounts of insurance** undertakings, OJ L 374, 31.12.1991, p. 7; as amended; consolidated version (2006); <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:01991L0674-20060905&qid=1482422248704&from=EN>.

⁴⁵⁹ Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the **prospectus** to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC, OJ L 345, 31.12.2003, p. 64; as amended; consolidated version (2014); <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02003L0071-20140523&qid=1482141943985&from=EN>.

⁴⁶⁰ Regulation (EU) No 537/2014 of the European Parliament and of the Council of 16 April 2014 on **specific requirements regarding statutory audit of public-interest entities** and repealing Commission Decision 2005/909/EC, OJ L 158, 27.5.2014, p. 77; <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014R0537&from=EN>.

⁴⁶¹ Proposal for a Regulation of the European Parliament and of the Council adapting a number of legal acts providing for the use of the **regulatory procedure with scrutiny** to Articles 290 and 291 of the Treaty on the Functioning of the European Union, COM/2016/0799 final; <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016PC0799&from=EN>.

⁴⁶² Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the **annual financial statements, consolidated financial statements and related reports of certain types of undertakings**, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC, OJ L 182, 29.6.2013, p. 19; as amended, consolidated version (2014); <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013L0034-20141211&from=EN>.

⁴⁶³ Proposal for a Directive of the European Parliament and of the Council amending Directive 2013/34/EU as regards **disclosure of income tax information by certain undertakings and branches**, COM/2016/0198 final; <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016PC0198&qid=1500391744611&from=EN>.

⁴⁶⁴ Proposal for a Directive of the European Parliament and of the Council amending Directive 2007/36/EC as regards the encouragement of **long-term shareholder engagement** and Directive 2013/34/EU as regards certain elements of the **corporate governance statement**, COM(2014) 213 final; http://eur-lex.europa.eu/resource.html?uri=cellar:59fcc6c-c094-11e3-86f9-01aa75ed71a1_0003.01/DOC_1&format=PDF.

⁴⁶⁵ Regulation (EU) No 258/2014 of the European Parliament and of the Council of 3 April 2014 establishing a **Union programme to support specific activities in the field of financial reporting and auditing** for the period of 2014-20 and repealing Decision 716/2009/EC, OJ L 105, 8.4.2014, p. 1; consolidated version 2017, <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02014R0258-20170101&qid=1500390501524&from=EN>.

⁴⁶⁶ P8_TA(2016)0248, International Accounting Standards (IAS) evaluation, European Parliament resolution of 7 June 2016 on International Accounting Standards (IAS) evaluation and the activities of the International Financial Reporting Standards (IFRS) Foundation, the European Financial Reporting Advisory Group (EFRAG) and the Public Interest Oversight Board (PIOB) (2016/2006(INI)); <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P8-TA-2016-0248+0+DOC+PDF+V0//EN>.

⁴⁶⁷ Commission Regulation (EC) No 1569/2007 of 21 December 2007 establishing a **mechanism for the determination of equivalence of accounting standards** applied by third country issuers of securities pursuant to Directives 2003/71/EC and 2004/109/EC of the European Parliament and of the Council, OJ L 340, 22.12.2007, p. 66; as amended; consolidated version (2015); <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02007R1569-20150101&qid=1492528472949&from=EN>.

⁴⁶⁸ Commission Directive 2007/14/EC of 8 March 2007 laying down detailed rules for the implementation of certain provisions of Directive 2004/109/EC on the **harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading** on a regulated market, OJ L 69, 9.3.2007, p. 27; as amended; consolidated version (2013); <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02007L0014-20131126&rid=1>.

⁴⁶⁹ Commission Regulation (EC) No 809/2004 of 29 April 2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards **information contained in prospectuses** as well as the format, incorporation by reference and publication of such prospectuses and dissemination of advertisements, OJ L

149, 30.4.2004, p. 1; as amended; consolidated version (2016); <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02004R0809-20160324&qid=1492528622693&from=EN>.

⁴⁷⁰ Commission Decision of 12 December 2008 on the **use by third countries' issuers of securities** of certain third country's national **accounting standards** and International Financial Reporting Standards to prepare their consolidated financial statements (notified under document number C(2008) 8218), OJ L 340, 19.12.2008, p. 112; as amended; consolidated version (2015); <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02008D0961-20150101&qid=1492528787615&from=EN>.

⁴⁷¹ Consultation Paper on the proposal for Guidelines on facilitating an **effective dialogue between competent authorities supervising insurance undertakings** and statutory auditor(s) and the audit firm(s) carrying out the statutory audit of those undertakings; <https://eiopa.europa.eu/Publications/Consultations/Draft%20EIOPA%20GLs%20effective%20dialogue%20supervisor%20auditor%20public%20consultation.pdf>.

⁴⁷² Regulation (EC) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgements in civil and commercial matters (recast) (**Brussels Ia**), OJ L 351, 20.12.2012, p. 1; as amended; consolidated version (2015); <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02012R1215-20150226&from=EN>.

⁴⁷³ Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to **contractual obligations (Rome I)**, OJ L 177, 4.7.2008, p. 6; as amended; consolidated version (2008); <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02008R0593-20080724&qid=1483397820971&from=EN>.

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ISBN 978-92-846-1645-9 (paper)
ISBN 978-92-846-1646-6 (pdf)

doi: 10.2861/221948 (paper)
doi: 10.2861/401116 (pdf)

