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AFG's answer to EC's Call for Evidence on Better Regulation



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AFG'S ANSWER TO EC'S CALL FOR EVIDENCE ON BETTER REGULATION

The French asset management association (AFG) welcomes the EC's call for evidence on better regulation and shares its objective to improve its better regulation policy to remain fit for purpose and future challenges, especially within the SIU agenda. The EU AM industry being a highly regulated sector, it is important to ensure that "simplicity by design" underpins existing and new pieces of regulation (proportionate, evidence-based and not inducing excessive regulatory burden for market participants). Please see below our proposals.

1. Better reconciliation of the need for evidence-based policies and urgent action in the conduct of EC's better regulation activities

AFG believes that integration of competitiveness at different levels is a cornerstone in the success of the better regulation initiative. From a regulatory perspective in the EU financial sector, the EU institutions have not prioritized competitiveness challenges. The fast-paced nature of EU regulation and the legalistic approach of entities like ESMA are impeding the competitiveness of EU actors, creating legal uncertainty: EU actors often experienced lack of synchronization between different regulations (e.g. SFDR with L1 rules entering into force before L2 rules were adopted and before CSRD was tabled).

Efficient competitiveness checks should be implemented. As all key jurisdictions (US, Japan, Singapore, UK), ESAs and NCA's mandate shall include "**competitiveness and medium to long-term growth, including of financial player**".

The **prospective capacity** of the EU policy makers should be reinforced to better determine regulatory priorities and strengthen the competitiveness of EU financial sector.

2. Ensuring a holistic approach to stakeholder consultation with a view to implementing a more efficient and effective manner to gather essential information

ESAs' role should be reinforced with **increased transparency** in decision-making processes, especially regarding consideration of stakeholders' views in public consultations. For instance, targeted consultations should systematically integrate professional associations.

Establishing **systematic industry workshops** and **holistic impact assessments** led by **expert panels** before new regulations could alleviate "silos" approaches and ensure both the essential link of the rule making to the market practices (that are lacking today) and a more predictable legal environment. Results should be publicly available in annual reports issued by such authorities.

3. Practical steps to be undertaken to make EU laws simpler and easier to implement in practice (e.g., as regards the legal instruments, the use of delegated and implementing acts, or the application of digital tools)

From a global perspective, it is essential to maintain hierarchy of norms, consistency and better sequencing between all levels of EU regulation and limit legislative inflation.

The role of each regulatory level should be respected: core principles inserted in L1 legislation while detailed technical rules in L2 or 3. Improving impact assessments from inception could enhance formulation of problems at "LO".

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Legal certainty should be ensured by implementing **proper sequencing** between regulatory levels, with a possibility to introduce dynamic clauses of entry into force. **Realistic timelines** for the implementation and entry into force of new pieces of regulation should be systematically introduced to guarantee sufficient consultation time and proper synchronization.

We also advocate for a **moderate use of review clauses**, to avoid constant reopening of the regulation.

Existing supervisory tools should be more efficiently used, instead of creating new tools. wider use of **no-action letters**.

Easier implementation also goes with **greater supervisory convergence, from a bottom-up perspective**, to remove barriers for cross-border activities, avoid discrepancies, duplication or gold-plating, which also goes with more data-sharing and practice-sharing between national authorities and ESAs.



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