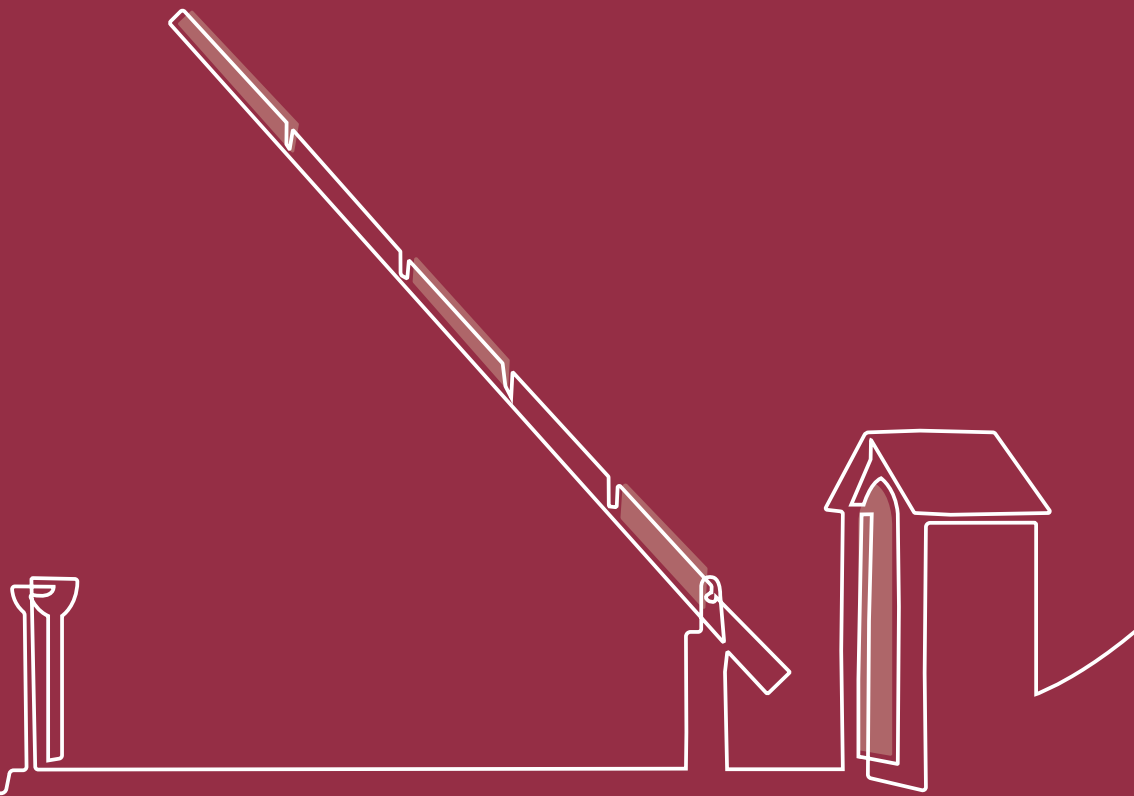


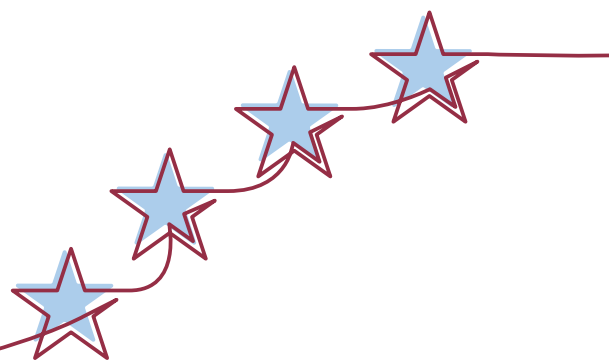
Strong banks for a single European financial market



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Private banks for a single European financial market



The last few years have seen the EU take its first steps towards establishing a single European financial market. But these aren't yet enough!

A completed single financial market will have two crucial advantages: on the one hand, retail customers and businesses will have access to financial services from all parts of the European Union. On the other hand, European banks will be able to offer their products efficiently in a large market, thus benefiting from economies of scale and increasing their profitability.

In our view, customers in Europe should find it perfectly natural to get banking services from all over Europe – whether it be a customer from Spain who wants to buy products from a bank in France, a customer from Italy who wants to make a deposit at a German bank or an investor from the Netherlands who wants to place an order for securities at a bank in Luxembourg.

Europe needs competitive and profitable pan-European banks of its own that support the European economy. Banks in Europe have built up long-term customer relationships, know the markets and can therefore provide their customers with competent advice. They also share common values on matters such as data protection.

Only a single financial market with strong banks of its own will enable us to safeguard European values and interests in a global environment.

To create a single financial market, EU rules and regulations must be further harmonised. We don't just need harmonisation of rules in classic banking-related areas, such as those covered by banking union and capital markets union, but harmonisation of a much more far-reaching kind. General provisions of private law must also be harmonised, for example. And in new fields, such as digitalisation or the market for sustainable products, we need to ensure from the outset that we do not end up with a patchwork regime.

In the following pages, we outline measures that will help to create a single European financial market.



The way forward towards a single European financial market

1. Banking union

- More use of EU regulations
- Reduce national discretions
- Establish cross-border capital and liquidity waivers
- Recognise banking union as a single jurisdiction for intragroup exposures
- Define responsibilities of supervisory authorities more precisely
- Strengthen the powers of the ESAs on European issues
- Uniformly define financial data reporting points

2. Capital markets union

- New approach
- Strengthen equity culture
- Expand capital-market-based provision for old age
- No rigid product rules
- Establish uniform EU-wide procedures for banning products
- Harmonise processes for refunding withholding tax on income from securities
- Complete securitisation framework and ensure it meets market needs

3. General private law

- Harmonise general private law
- Harmonise insolvency law
- No national “gold-plating”
- EU-wide data format for credit assessment

4. Digitalisation

- Strengthen basis for digitalisation
- Establish new technology-neutral EU-wide rules
- Transfer analogue rules to the digital world
- Adopt uniform EU-wide definitions and guidelines for outsourcing
- Harmonise digital onboarding (KYC rules)
- Avoid distortion of competition through asymmetric data access by big techs and banks
- Make information to customers on use of their data clear and concise

5. Sustainable finance

- Uniform taxonomies
- EBA studies on potential capital relief and new risk categories advisable

6. Consumer protection

- Allow a legally sound, uniform EU-wide “right of withdrawal” clause
- Reduce superfluous customer information
- Create a uniform EU-wide level of consumer protection
- Review MiFiD II and its excessive requirements for banks and customers

7. Taxation

- Drop the idea of a financial transaction tax
- Harmonise business taxes in the EU

Red bullet points are covered by this paper.

1. Banking union

Moving forward on banking union is one of the central concerns of the European Union and, in our view, key to establishing a single banking market which is fit for the future. Despite a Single Supervisory Mechanism (SSM) and various harmonisation projects, European banks still face considerable national differences. These differences keep them from offering their services EU-wide, especially in those member states which have a less well-developed banking landscape and rely on lending from abroad. Big banks in particular, which are subject to common cross-border supervision within the banking union, should therefore also be enabled to do business across borders. To allow this, it is vital that harmonisation of regulation is driven forward and that the rules are applied uniformly by supervisors.

Example: regulations

Better harmonisation could be achieved by making greater use of regulations instead of directives, which have to be implemented in national law. Take the CRD: as a result of differing implementation of the CRD, the term “lending business” (Kreditgeschäft) used in Germany differs from definitions in other member states.

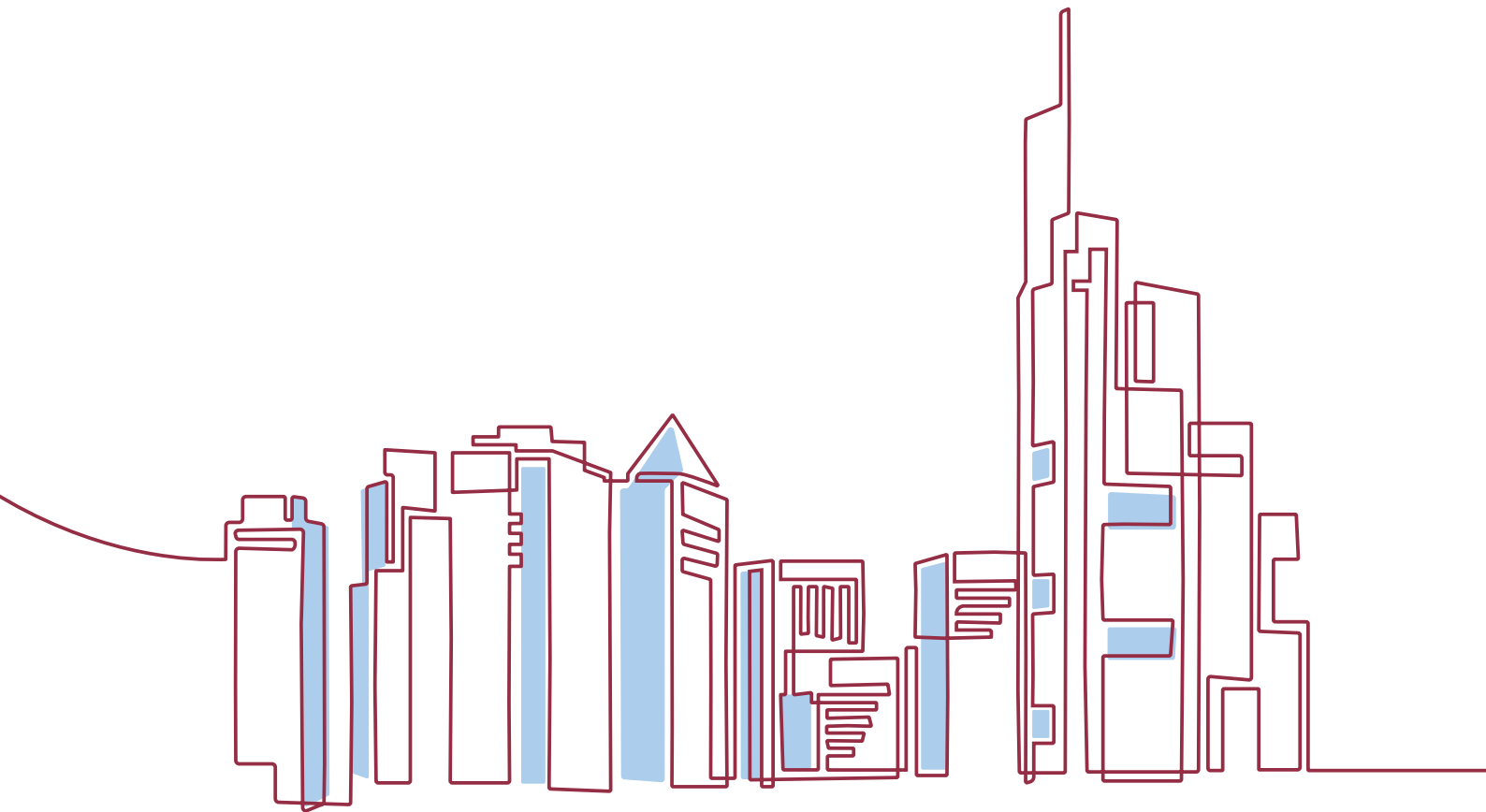
Without any further progress on harmonisation, banks will be forced to continue thoroughly familiarising themselves with the different national rules and supervisory practices

before they can, for example, engage in cross-border lending to small and medium-sized businesses. Furthermore, they will have to continuously monitor changes at national level and implement these, both at considerable cost, if they want to carry on doing business. This high barrier to cross-border business, which artificially limits product diversity for European customers, can only be overcome by gradually harmonising the regulatory and supervisory framework.

Example: O&Ds

The number of national options and discretions (O&Ds) should be brought down in the long term, since they tend to result in a patchwork of rules that makes it more difficult for banks to set up centrally managed units for the entire EU and exploit synergy effects.

In order to progress towards a single financial market, cross-border banking groups should be able to handle their capital and associated regulatory requirements, such as those for large exposures, centrally at group level. Currently, banks have to manage requirements both at group level and, for their subsidiaries, at various national levels as well. This ties up capital and liquidity and prevents these resources from being used efficiently. In a Europe that wants to create a single financial market and in which banking groups are already subject to single supervision and resolution mechanisms, there is no reason to withhold cross-border waivers.



Example: waivers

With the help of cross-border capital and liquidity waivers, banks could deploy capital in Europe where it is needed to generate economic growth. We estimate that billions of Euro of regulatory capital and liquidity could be freed up for the G-SIBs of the Eurozone alone.

The reporting regime has been repeatedly extended and, at some banks, the number of staff handling reporting has doubled despite the general cutback in personnel. This raises the pressing question of whether the more than 60,000 data fields that supervisors can ask banks to complete in the context of FINREP alone can be evaluated in an effective way at all, or whether it is not time to limit ourselves to less, but more meaningful and standardised data. The first step should be to establish standardised definitions of the data involved. At present, the information reported by banks in different member states sometimes differs widely. We would also recommend that the various national and European authorities coordinate their data requests much better. New solutions are needed to reduce overlaps when drawing up and applying reporting requirements. Ideally, a central, EU-wide data repository should be established. Before issuing new requests for data, supervisory authorities could check to see whether the desired data already existed. This would allow authorities to access existing data more quickly and banks would not need to complete new data fields unnecessarily. The result

would be significant administrative relief for banks and customers. When setting up a central repository of this kind, however, it will be essential to ensure that data requests from other sources are simultaneously dropped. Otherwise, we will merely end up adding a further layer to an even more expensive and convoluted regime.

Example: definitions

While banks in some member states report loan-to-value ratios using the purchase price of property as the basis for their calculations, Germany takes a more conservative approach and uses the collateral value. As a result, the reported data is not really comparable.

Banks also face the problem of having to constantly make adjustments in response to new reporting requirements, thus tying up a large part of their IT budget. Even small changes can be time-consuming and costly, as they have to be thoroughly tested to see how they interact with the rest of the system. These resources could be better invested in developing digital innovations.

Example: adjustments

More long-term planning should go into reporting requirements and changes should be consolidated and introduced throughout Europe on certain predefined dates so as to keep the administrative workload manageable.

2. Capital markets union

A stable single financial market requires both a functioning banking market and further integration of the European capital market. This is the only way to ensure that risks are spread evenly and appropriately among a number of market participants. Both markets unfold their effect together – they do not operate side-by-side in isolation. They have to complement each other in what they do.

As part of its efforts to drive forward capital markets union, the European Union has undertaken various measures that – taken individually or as a whole – are unfortunately unlikely to strengthen the European capital market and consolidate its integration in the long term. The EU has, in particular, failed to fully live up to its promise to focus on and foster the market. Not only the example of securitisation shows that there is a danger of regulation being adopted which ignores market needs. For this reason, fresh impetus is needed to create a capital markets union.

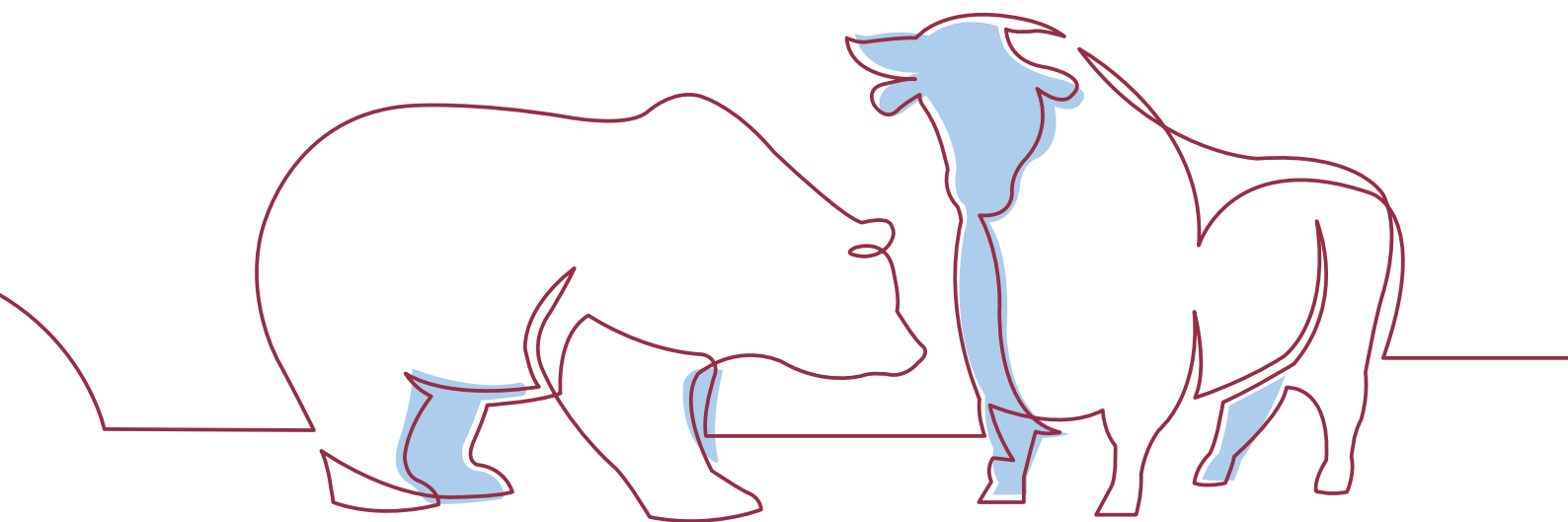
Example: securitisation

European regulation of securitisation should be designed in such a way that it can really lead to a responsible revival of the market – securitisations are a key instrument for linking financing by banks with the capital markets. Regulation which ignores market needs risks damaging the market instead of reviving it.

Capital markets union is intended to strengthen Europe's position as a financial centre in a world of global competition, increase its appeal (competitiveness) and openness to foreign investors and thus attract capital and liquidity from abroad. Up to now, the City of London has played the primary role in achieving this. When the United Kingdom leaves the EU, we will lose this European financial centre, however. Though a comparable new centre cannot be created in the EU27 by legislation alone, the EU can, by furthering capital markets union, establish a better environment for attracting foreign capital. This will require the largest possible single market, in which it is naturally market participants who compete to determine the failure or success of old and new players, products and locations.

Example: withholding tax

A continuing obstacle to cross-border transactions in the capital market is the different and complex processes and forms in member states for obtaining refunds of withholding tax on income from securities. This hurdle on the road to capital markets union is also a worldwide obstacle to investment. In the medium term, it would benefit customers if these processes were simplified and harmonised. In the long term, refund processes and forms could be replaced by the application under double taxation treaties of relief from withholding tax for the final beneficiary at the time of payment (relief at source).



As with banking union, a prerequisite for a smoothly functioning capital markets union is further progress in harmonising the legal basis across Europe in areas such as company law, insolvency law, accounting standards and taxation. It is important that regulation should become more uniform too, but also considerably more consistent and predictable. This is the only way that banks will be able to adapt to regulatory requirements while at the same time focusing on refining their business models in an innovative manner.

The development of products ideally available to all customers throughout Europe is a further key to the success of capital markets union. Policymakers would be well advised to refrain from the rigid regulation of products: we need uniform framework conditions, not uniform products. Market participants would then be able to compete throughout Europe and across borders to develop the right financial solutions and products for the market and offer different products in different member states.

Example: product bans

To create a single capital market, decisions on banning products and on the suitability of products for retail clients should be made at EU level.

In addition, equity and investment culture in Europe should be further enhanced. Retail investors in Germany, in

particular, are still too reluctant to invest in capital markets. This hampers both the private build-up of assets and the funding of innovation. One reason for increasing reluctance among retail investors is the need to deal with cumbersome processes resulting from regulatory requirements, such as MiFiD II.

Example: old-age provision

Capital-market-based provision for old age cannot be increased with the help of EU products alone, but requires much better incentives to be set in member states. This is the only way to establish this key element of making secure provision for old age.

3. General private law



Harmonising nationally-oriented private law poses a particular challenge. Established areas of law such as consumer protection, as well as company law and insolvency law, have evolved over time and affect many other areas of national law going well beyond the banking sector. Harmonisation should be steadily driven forward here. This would greatly facilitate not only cross-border banking business but also other cross-border activities. At present, it is very difficult for banks – as well as businesses and retail customers – to know whether they will be able if necessary to enforce contracts they have concluded in other member states.

Example: enforcement

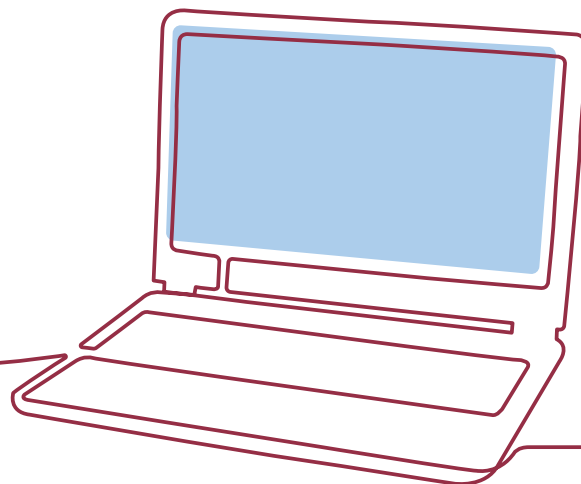
In some countries, it can take more than ten years to realise collateral in the form of real estate.

keeps them from making cross-border transactions. As a result, whole parts of the single market – in the area of both goods and services – effectively remain closed to them. This is illustrated by the fact that to date only 7% of EU citizens have actually obtained a financial service in another member state.¹

Unless private law is harmonised, it will be difficult for banks to develop their financial services for a European market, as adapting products to various national rules and running internal processes to monitor national regulation threaten to cancel out the benefits of cross-border business. Conversely, fragmented regulatory regimes mean uncertainty for customers as well: particularly uncertainty about what rights they enjoy in other member states often

¹ https://ec.europa.eu/info/sites/info/files/factsheet-consumer-financial-services-action-plan-23032017_en.pdf

4. Digitalisation



The banking sector undoubtedly faces the challenge of sweeping digital transformation. To avoid being left behind by other economic regions or newly emerging markets, we need to create an innovation-friendly environment throughout Europe for the “banking” of tomorrow. With this in mind, care should be taken when developing rules and standards to ensure that these do not fragment the European market but, on the contrary, strengthen it and make it competitive and fit for the future. This is all the more important, given that digital applications and ideas know no national boundaries and are virtually destined to be made available equally to customers throughout Europe.

Example: onboarding (KYC)

The uneven implementation of anti-money laundering rules makes it difficult to acquire and onboard new customers throughout Europe. Not only do the identity documents accepted for verification purposes vary from one member state to another, but the security features of identity documents differ too. Different member states require the collection of different know-your-customer (KYC) data, some of which not all consumers in the EU even have at their disposal. As a result, the “passporting” of verification methods, meaning their cross-border use across the internal market, is only possible to a very limited extent.

Existing legally sound rules in force in the analogue world should, in addition, be examined promptly to see whether they can be used in the digital age and adapted where necessary. Questions like these are cropping up in all member states and, to avoid any unnecessary fragmentation, need to be answered quickly at European level so that customers in all countries enjoy the same rights.

Example: new technologies

- Facilitate digital commerce (e.g. conclusion of digital contracts)
- Application of rules on initial coin offerings (ICOs)

As digitalisation does not come to a halt at the EU’s external borders, the EU must also call internationally for uniform rules that establish a minimum standard for banks and competitors when handling new technologies. Only if the EU speaks as a community pursuing the interests of a single market will it be able to influence the new rules to a sufficient extent.

For next-generation technologies such as artificial intelligence (AI), big data, quantum computing, robotics, blockchain or cloud computing, we need standards at European or, even better, international level that will facilitate global value chains. Otherwise, European banks may be left behind by these developments.



It is surely in the interests of the EU to retain the ability to influence how these technologies are used, especially when fundamental social values such as the right to personal data are affected. This can only be achieved if the EU becomes a leading location for digital technologies.

Example: cloud outsourcing

As digitalisation proceeds apace, it is essential that banks can make efficient use of cloud services, both as the infrastructure behind their own digitalisation projects and when collaborating with fintechs. The flexibility and scalability that cloud services offer must not be hindered by excessive regulatory requirements. A possible approach to ease the implementation of cloud services could be the certification or direct supervision of cloud service providers at European level.

A high level of data protection, both accorded by law and applied in practice, should therefore be seen as a locational advantage. Nevertheless, data protection should not act as a brake on future business models, but should facilitate them, and should be continuously refined to accommodate new technical possibilities. High legal standards must not be allowed to prevent technological innovation from the outset.

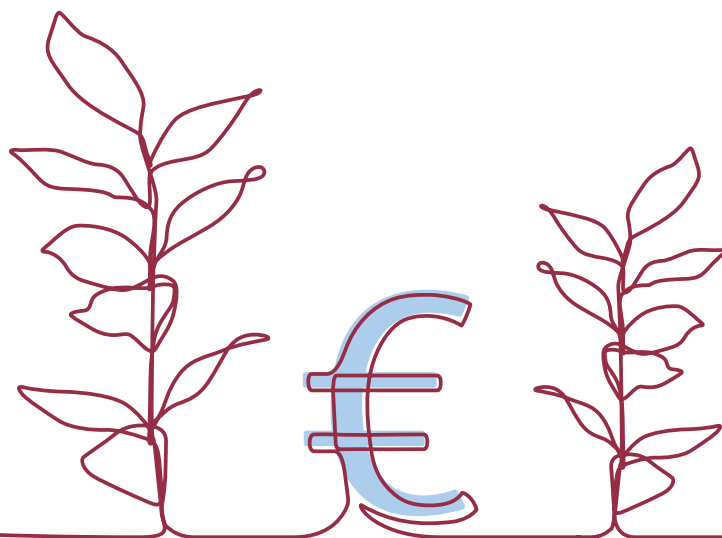
It is debatable, with this in mind, whether the principles of data economy and strict purpose limitation in European

data protection law are really appropriate given the current pace of innovation and the huge potential of big data. Do they perhaps, instead, cause opportunities for customers and providers to be wasted in a way that does not happen in other parts of the world? In a global data economy, data protection must also be judged by its ability to avoid placing excessively high barriers in the way of new business models. On no account should it encourage providers to migrate offshore. A balance therefore needs to be struck between the ability to innovate, on the one hand, and sensible and effective data protection, on the other.

Example: data protection information

Customers must have transparency and information about how their data will be used. But they should not be overwhelmed with a flood of information which may ultimately be ignored. We therefore recommend developing uniform standards for consumer information that can be presented concisely in the form of icons, bullet points or a one-pager.

5. Sustainable finance



Banks play a key role in financing an economy geared to sustainability principles. The private banks and their subsidiaries have been closely involved in a number of sustainable finance issues for many years. Thanks, not least, to the European Commission’s “Financing Sustainable Growth” action plan and presentation of its first legislative proposals, the debate is quickly picking up momentum. When tackling this increasingly important topic, any fragmentation of the single EU market again needs to be avoided from the outset.

If banks and financial markets are to be able to adequately finance the transition to a sustainable recycling economy, a harmonised and practicable framework needs to be put in place at European level. The newly created rules should promote the sustainable finance market effectively, but without hampering market dynamics through misguided or excessive regulation.

Example: uniform taxonomies

As a basis for a single market, a common understanding of sustainable finance should first be established. This should primarily be achieved with the help of a stable and future-proof classification framework with uniform taxonomies.

6. Consumer protection

German private banks call for effective and appropriate consumer protection. When creating a single financial market, it is important to establish uniform, EU-wide rules that are, in addition, applied uniformly across the EU. This will ensure that consumers enjoy the same high level of protection in all member states.

Both banks and consumers need legal clarity throughout Europe about what consumer protection rules exist and how they should be applied. In addition, the flood of information that is of no importance to customers should be minimised. If information provided to customers is too long, there is the danger that customers will no longer take note of the important points. Customers should instead be given brief and concise information to allow them to make

well-informed decisions themselves. Uniform EU-wide rules are required so that customers throughout Europe can be informed appropriately about their rights by means of an information document provided by their bank.

Examples: MiFID & right of withdrawal

- The MiFID package runs to over 20,000 pages of detailed rules, regulations and guidance, placing an excessive burden on consumers and banks.
- National differences make it impossible at present to use a uniform “right of withdrawal” clause throughout Europe.

7. Taxation

Coordinated tax law has a major role to play in a functioning single financial market. Even if income tax – unlike VAT – should not be fully harmonised, tax law in the member states should continue to be aligned in order to avoid competitive distortion and the distortion of tax revenues undermining the smooth functioning of the internal market. The Commission’s current proposal for a two-step reform of the taxation of corporate groups in the EU should therefore be rigorously pursued. First, a common corporate tax base needs to be defined, followed by agreement on the consolidation of profit or loss. Swift implementation is also needed of the Commission’s additional proposals for eliminating the preferential tax treatment of debt over equity financing and for offsetting cross-border losses.

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