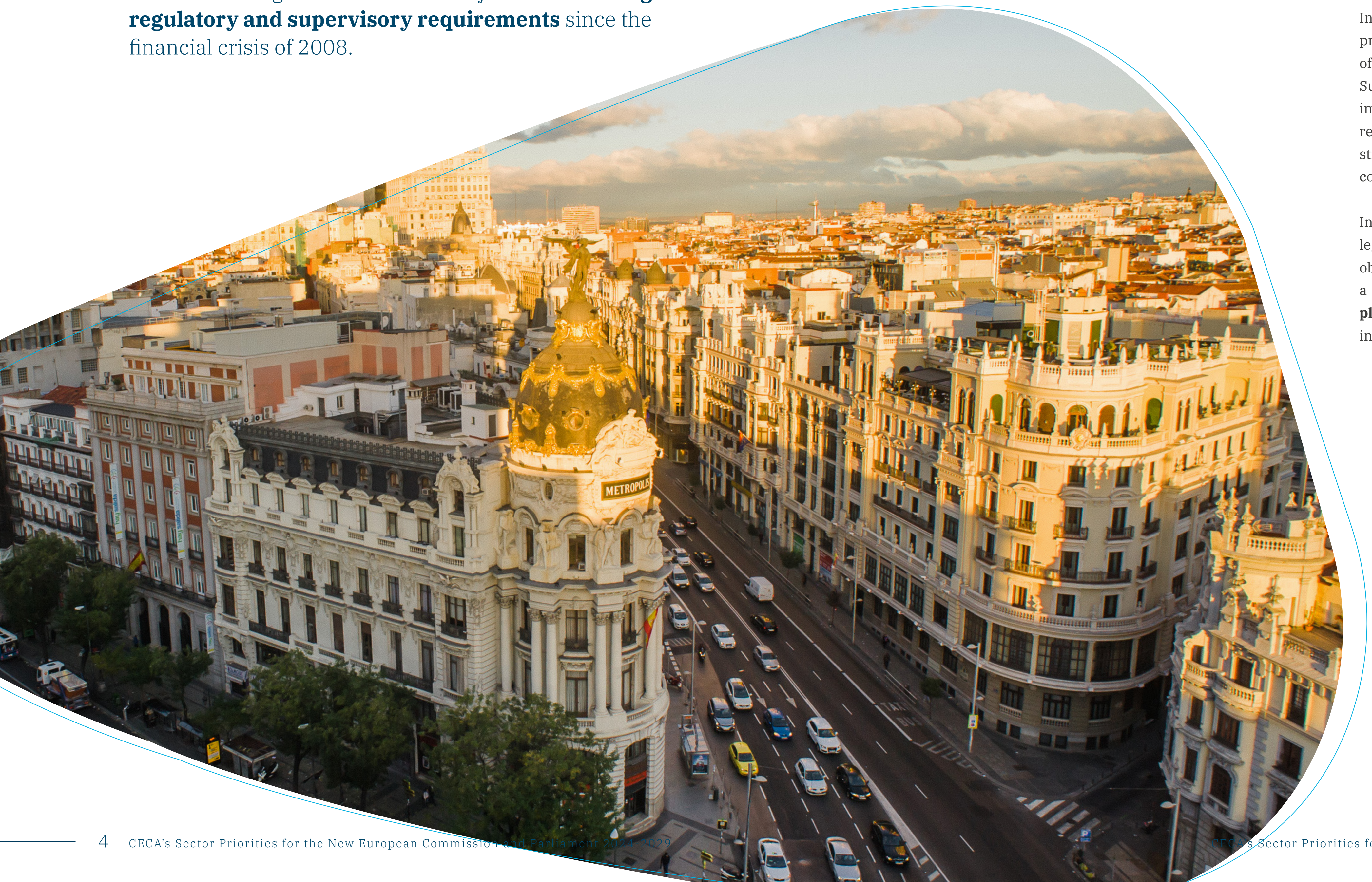
CECA's Sector Priorities for the New European Commission and Parliament 2024-2029

March 2024

Index

0. Introduction

The EU banking sector has been subject to **increasing regulatory and supervisory requirements** since the financial crisis of 2008.



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In later years, digital and sustainability requirements have been added to the equation. This broader scope of the regulation, together with the new two-tier supervisory framework (at both EU and national level) have combined to make the **cost of compliance** one of the main concerns for banks. In the case of CECA entities, we are in the process of estimating the real cost of regulation, with the aim of increasing the awareness of regulators and supervisors about this issue.

In fact, it is so relevant that, in a quest to avoid this regulatory pressure, firms have channelled an increasingly large part of their financial activity to the "shadow banking" market. Supervisors have showed their concern about the potential impact of this situation on **financial stability,** but the reality is that, unless the regulatory framework for banks is streamlined in the coming years, this tendency is likely to continue growing in the future.

In this context, **CECA's sector priorities** for the new legislative cycle, while keeping in mind the overall political objectives for the EU financial sector, are oriented towards a **reduction of this regulatory burden** and **levelling the playing field** for the different players in the financial arena in order to **avoid the risk of regulatory arbitrage.**

1. Avoid undue distortions to market functioning

We have noticed an **increasing and worrying trend towards price regulation.** Some clear examples include the Value for Money and benchmarks in the Retail Investment Strategy (RIS) or the possibility to apply caps in consumer credit, among others.

We strongly encourage legislators to avoid using price control regulation

It is well known and documented that it is always difficult for regulation to impose price controls. There are many factors and variables in place, such as national specificities, intrinsic characteristics of the products/services, and differences in consumer preferences and market practices. As a result, regulation generally intends to focus on those necessary elements to ensure that prices work efficiently, rather than acting on prices themselves. Take for instance the regulation on mandatory disclosures, which aim to ensure that decisions from market participants are taken on an informed basis.

Depending on markets' characteristics, price regulation can have significative **negative implications** for competition and innovation and end up limiting the provision of adequate financial services to different types of clients. In this context, it would be advisable to permit, for example, the exclusion of certain IDD (Insurance Distribution Directive) products from the calculation of benchmarks. It should be noted that the RIS follows a more fund-oriented approach. This approach and even some of the terminology does not fit that well with the insurance sector. This is particularly relevant for insurance products with relevant biometric components, such as Unit-Linked products.

We strongly encourage legislators to **avoid using price control regulation**, trying to minimise price distortions, and promoting a proper and efficient functioning of financial markets. This includes not restricting the payment of inducements under the non-independent advice model when the quality enhancement test is passed.

2.
Taxation

Ill-designed taxes are also a key source of undue distortions to the normal functioning of markets. This particularly affects the EU financial market, increasing fragmentation, generating unlevelled playing field and ultimately, affecting competition.

Since the pandemic, taxes or levies targeted to specific economic sectors have proliferated throughout the EU. One of the first to be approved in 2022 was the Spanish levy on banks. Its focus are the so-called "windfall" profits generated by the banking sector. Other countries have followed suit by approving or proposing their own taxes, such as Italy, the Czech Republic, Hungary, Latvia, or Lithuania.

In the case of Spain, the new levy is **especially harmful**, as it is calculated on the basis of the interest income plus net fees instead of on profits, so it does not take into account the increasing expenses derived from the inflationary situation. Also, entities are **not allowed to translate this cost to their customers,** something that goes against EBA and SSM rules, that state that all costs have to be considered in order to price products and services. Deduction from company tax is also forbidden.

The ECB criticised Spanish bank levy in a non-binding legal opinion, warning it could damage the capital position of lenders, disrupt monetary policy, create uncertainty and adversely affect real economic growth. Also, the ECB said that the application of the levy only to certain Spanish credit institutions could distort market competition and impair the level playing field both within the country and across the banking union.

Although the Spanish bank levy was supposed to be **temporary**, the new Government announced its extension for 2024 and the revision of its design to make it **permanent**, further damaging the level playing field of Spanish institutions in the EU and international arena. In this context, we believe that these levies should be **discontinued**, and in case they are not, it may be necessary to have a **European framework** in order to homogenise the different approaches, making them non-discriminatory across entities, economic sectors, and jurisdictions.

3.
Digital transformation

Financial entities in Europe are facing significant challenges in their journey towards a digital transformation.

Digital euro, new market players, cybersecurity or IA are the main concerns in this item

Our main **topics** of concern in this area are the following:

Digital euro: the project of a digital euro has substantial potential implications for financial stability and economic growth. It may interact with other fundamental developments such as the **EU Digital Identity**, with broad and deep implications for citizens and markets. In order to limit its impact on the banking sector, we consider of key importance to ensure that the digital euro starts small and the steps for their implementation will be guided by detailed bottom-up impact studies. It should be designed as a means of payment and not as a savings instrument and its usage **restricted to transactional purposes**. Due to this, strict limits on the amount of digital euros held by each customer have to be imposed, depending on where the holding limit is placed, the digital euro could have a significant impact on the financing of credit institutions. Some of the limits being envisaged (e.g. €3000) are far too high in our view and are likely to generate disruption in financial intermediation, among other unintended consequences. Otherwise, the risk of outflow of bank deposits and a subsequent **credit crunch** may be too high. For example, a recent study suggests that highly impacted banks could suffer an outflow of 20% of their deposit base.[1] Also, on the operational front, **interoperability** with the current interbank payment solutions needs to be ensured in order to avoid escalating the costs of the payment infrastructures, it could also leverage local national payment solutions that already exist, such as Bizum in Spain. Furthermore, their distribution of the digital euro must be secure and exclusively in the hands of regulated entities. Finally, cybersecurity should be one of the cornerstones of the design, and the digital euro rulebook should specifically address **fraud prevention.**

1. Copenhagen Economics (2023), “Effects of a digital euro on financial stability and consumer welfare”, December.

New market players: over the past few years, the emergence of the so-called Fintech companies, which rely on technology to provide financial services, are playing a growing role in the EU financial market, eroding incumbent firms' business model by positioning themselves in different parts of the value chain. Starting mainly in the payments business -benefiting from the EU regulation on Payment Service Providers or PSPs-, they are escalating their business and increasingly positioning themselves as fully fledged financial institutions. At the same time, we detect a substantial interest in banking services by big international technology firms (*Bigtechs*), something potentially more disruptive to the EU financial markets given their size and financial power. In this context, and in order to avoid an even bigger "shadow banking" market, **we advocate the necessity of applying the adage of "same activity, same rules, same supervision" to all market participants, irrespective of their origin**.

Customer data: one of the main objectives of these new players by entering the financial arena is to have access to financial information on their customers, something that the current EU legislation **(PSD2)** facilitated for payment purposes, and its upcoming review **(PSD3/ PSR)** wants the extend to the full array of financial data. In this sense, we have been alerting of the **asymmetries of the current regime**, as *fintech* and *bigtech* firms are not obliged to reciprocate by sharing their own information with financial entities. New regulatory initiatives, mainly the **Digital Market Act (DMA)** are expected to address this issue.

But there are also other ongoing developments such as the **Financial Data Access Framework (FIDA).** It is fundamental for FIDA to find the right balance between data sharing and the protection of individual data rights, to ensure **adequate compensation** mechanisms and a right alignment with existing regulation.

In fact, the new "data economy" is becoming a centre piece in the new digital economy, involving issues that

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goes quite beyond payments information. As such, we encourage legislators to be especially careful under this new and evolving scenario. While it is key to advance towards fair and consistent rules for data sharing, it should also be considered that there are value-added data that should be allowed to remain proprietary.

Cybersecurity: the increased digitalisation of the banking sector has had a collateral effect with the extension of cybercrime: new types of fraud targeting retail customers (such as *phishing* and *vishing*) are growing rapidly, and attacks on banking digital infrastructures are also increasing. In this context, it is of paramount importance that EU legislation, such as Telecom companies and technology providers, and the support of the public sector. The recent political agreement on the Cyber Resilience Act can help pave the way in this regard, by ensuirng the cyber secureness of hardware and software products.

Regarding digital fraud events, the **burden of proof** should be balanced and feasible between the bank and the entity. Adding undue charges to the banking sector where there is no responsibility on its part should be avoided.

Artificial Intelligence: the potential disruptive power of IA is becoming a reality as we speak. As a result, regulation on this area should tackle some difficult challenges in order **not to block emerging opportunities** that the IA are opening, while addressing new risks arising from its usage (for instance, its usage by hackers in order to improve their attacks). Given the dramatic and rapid changes in this area, we encourage legislators to work closely with the financial sector to help shape the 'next generation' of regulation on this and other very challenging topics in the digital world.

4.
Sustainability

In addition to digitalisation, sustainability is highly positioned in the agenda of the EU institutions for coming years.

In this task, the role envisaged for financial institutions is key, mainly derived from their position as main financers of the real economy. In this sense, our **main concerns** are the following:

1. **Intensity of regulation:** the regulatory agenda linked to sustainability has been growing too quickly over the past few years, imposing very demanding (and sometimes conflicting) obligations to financial entities. Due to this, we consider that **a clear roadmap with attainable milestones** based on clear rules is necessary in order to smooth the implementation of the new paradigm. In some initiatives adopted during this mandate such as the **Deforestation Regulation** or the **Corporate Sustainability Due Diligence Directive (CSDDD),** the inclusion of financial institutions has been much discussed. For the next mandate, we consider that the Commission should avoid imposing on banking entities **obligations or requirements** that are impossible to fulfil or clearly exceed the reasonable responsibility that should be attached to financial activities.

2. **Lack of information:** there is a high degree of **uncertainty** about what can be considered green, as the taxonomy and its related regulation is still **evolving** over time, while at the same time entities are expected to start applying it. This increases the risk for the entities of being accused of "**greenwashing**" if, for instance, an activity formerly considered green is removed from the taxonomy at a later stage. In the case of changes to the taxonomy, we believe there must be extensive **grandfathering**.

   Also, there is a **lack of knowledge about the activities of the banks' customers**, making it very difficult to comply with control and audit requirements involving the **value chain** as a whole, as is proposed in initiatives such as the already mentioned CSDDD. Financial entities are always open to cooperate and join efforts with the authorities, but **rules imposed to them should be proportionate and attainable.**

3. **Ensuring a smooth transition:** in our view, it is necessary to strike a balance by **incentivizing a greener economy while at the same time ensuring that "brown" customers have time to adapt to the new reality**. In this sense, **financing the transition** is of paramount importance in order to avoid a "cliff effect" that may derive from a situation where funds for "brown" customers are reduced with not enough alternative green investments to support economic growth.

5.
Banking Union

The EU Banking Union, put in place almost ten years ago, comprises **three pillars** focused on supervision, resolution and an EU deposit guarantee scheme.

The **first pillar**, focused on a Single Supervisory Mechanism, is generally working well, and is currently in the process of being improved on the basis of the recent report prepared by the **expert group on SREP**.

The **second pillar** deals with the Single Resolution Mechanism, and it is also currently being reviewed by the CMDI proposal. Our **main concerns** about this proposal are the following:

- **An effective liquidity in resolution tool is not provided**: the recent crisis of midsize banks in the U.S. is a clear example of the importance of **providing ample liquidity to ailing institutions**, in order to allow an orderly resolution or liquidation and avoiding contagion risk to other banks.
- **Improvements to the business transfer strategy**: the only resolution tool which used so far has been the transfer strategy based on a "sale of business". We propose to enhance the provided protection of the acquirer's responsibility with regard to **contingent and hidden liabilities**. The less uncertainties the potential acquirer has to face, the most interesting the purchase will be for potential investors.

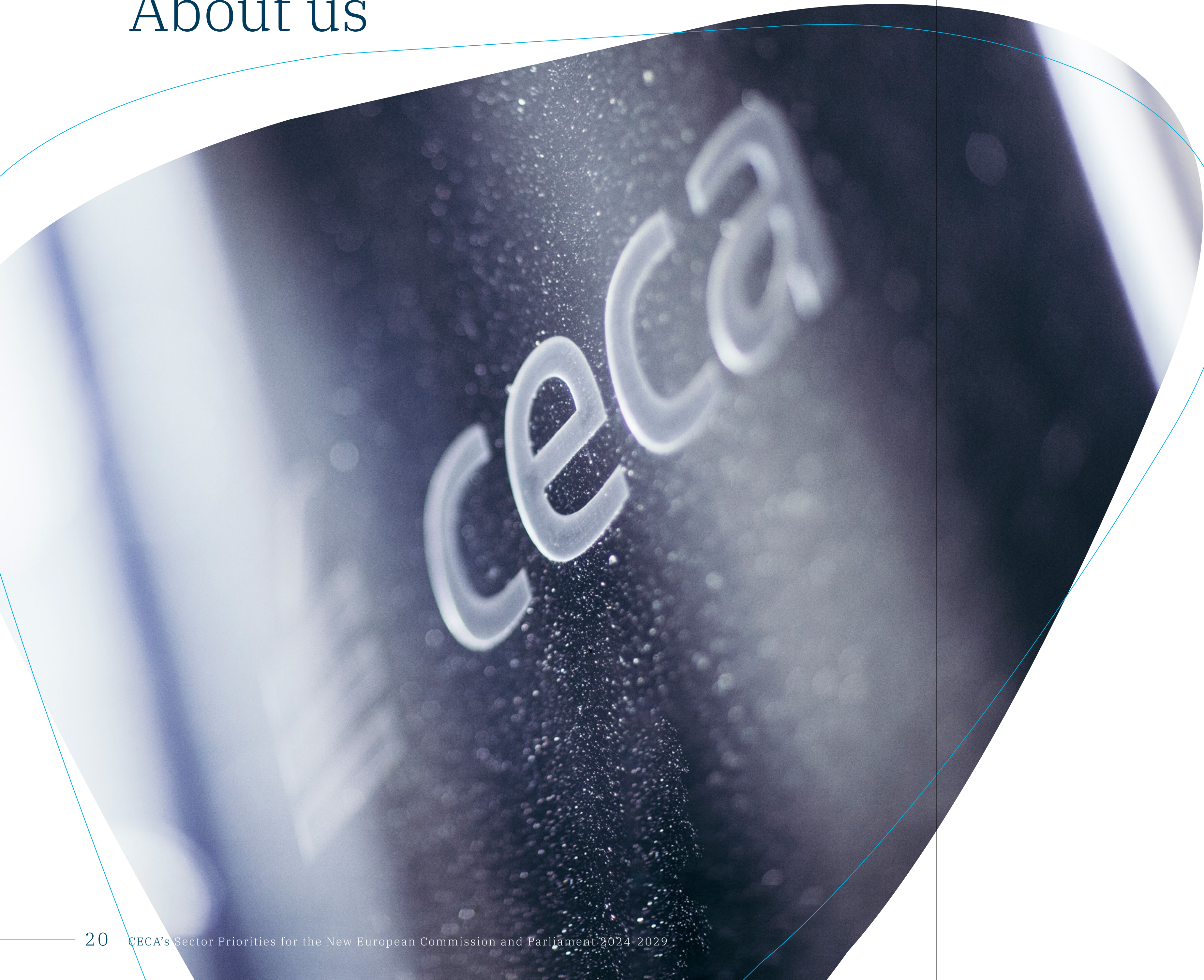
Finally, the **third pillar** remains uncomplete, as the single deposit insurance scheme, or EDIS, has not been put in place. In our view, without it, no real union can be reached, as depositors in different jurisdictions face very different real coverage levels. Also, the **link between sovereign and bank risks** remains in place. Due to this, we urge the new EU Commission and Parliament to unite efforts in order to move forward the Banking Union project during the new legislature, which probably will involve a **pragmatic approach to EDIS** where all involved parties find a middle ground as a first step. This may include, for example, undertaking a previous Asset Quality Review (AQR), or maintaining in place national funds in order to bear the first losses.

6. Conclusions

There are significant **challenges** for the regulatory framework of the EU banking sector in coming years, and the way they are addressed may have a relevant impact on financial stability and economic growth. CECA and its members believe that a **balanced approach** is key in order to attain the desired political objectives without endangering the financial sector in the process.

We remain at your disposal in order to discuss this position more in-depth.

7. About us



Who we are

CECA is a Spanish banking association committed to representing, defending and promoting its member entities' interests.

It provides them with advice and supports them in their endeavour to offer services that promote financial inclusion and access to credit. This work is undertaken with a sustainable approach, notably featuring Obra Social and financial education.

CECA is an active member of the international associations that represent the retail banking model which prioritises financing for families and SMEs (ESBG and WSBI), a model with which CECA's member entities are fully identified with.

WSBI ESBG

Who we represent

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