

Executive summary

Het probleem is niet dat regelgeving complex is, maar dat institutionele mechanismen regelcomplexiteit blijven reproduceren.

Regulatory Complexity Framework

Waarom ontstaat regelcomplexiteit en hoe kan zij duurzaam worden verminderd?

Deze publicatie introduceert het *Regulatory Complexity Framework*, een analytisch kader dat verklaart waarom financiële toezichtregelgeving ondanks herhaalde vereenvoudigingsinitiatieven steeds opnieuw complexer wordt. Het *Framework* brengt elf zelfversterkende mechanismen die regelcomplexiteit genereren en versterken systematisch in kaart en koppelt deze aan concrete institutionele hervormingen die hun complexiteitversterkende werking kunnen neutraliseren. Daarmee biedt het een analysemethode voor de ontwikkeling van duurzamere vereenvoudigingsstrategieën.

Brede toepasbaarheid, óók buiten het financiële toezicht

Hoewel het Framework is ontwikkeld aan de hand van financiële toezichtregelgeving, is de benadering ook toepasbaar op andere complexe regelgevingsdomeinen.

The Regulatory Complexity Framework

How regulatory complexity is generated - and how it can be weakened

2026

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Central Narrative of the Presentation

1. **Regulatory complexity** - EU financial services legislation has become increasingly extensive and detailed, with most of its technical content now being developed by the European Supervisory Authorities through technical standards and guidelines.
2. **Dimensions of regulatory complexity** - Regulatory complexity consists of three interrelated dimensions: the complexity of the financial system itself, the computational complexity of implementing regulation, and the psychological complexity of understanding and applying it.
3. **Limited analysis of the re-emerging of regulatory complexity** - Although recent European policy reports increasingly recognise that complexity is reproduced through the regulatory process itself, they do not systematically distinguish the underlying self-reinforcing mechanisms or provide a general analytical methodology for identifying them.
4. **The Regulatory Complexity Framework** - This presentation therefore introduces the *Regulatory Complexity Framework*: an analytical framework that explains the institutional mechanisms through which regulatory complexity is generated and reinforced over time.
5. **Eleven self-reinforcing mechanisms** - The Framework identifies eleven conceptually distinct self-reinforcing mechanisms that together explain why regulatory complexity persists despite repeated simplification efforts.
6. **Complexity drivers** - Each mechanism is analysed using a consistent methodology: the complexity driver, its self-reinforcing dynamics, a possible institutional reform, and an illustrative practical example.
7. **The central proposition** is that lasting regulatory simplification requires addressing not only the symptoms of complexity, but also the institutional mechanisms that continually reproduce it.
8. **The proposed institutional reforms** are designed to reduce unnecessary complexity while preserving the fundamental objectives of financial regulation, thereby providing a structured basis for more durable legislative simplification.
9. **Complementarity** - The Regulatory Complexity Framework complements existing European and international simplification initiatives by explaining why regulatory complexity repeatedly re-emerges and by providing a structured basis for more durable regulatory simplification.

The Central Thesis of the Regulatory Complexity Framework

Regulatory complexity is not merely the result of an increasing number of rules. It persists because of self-reinforcing institutional mechanisms. Understanding these mechanisms is essential for designing regulatory simplification initiatives that deliver lasting results.

The Regulatory Complexity Framework developed in this analysis identifies the self-reinforcing institutional mechanisms that generate regulatory complexity and provides a structured basis for identifying institutional reforms that may contribute to more durable regulatory simplification.

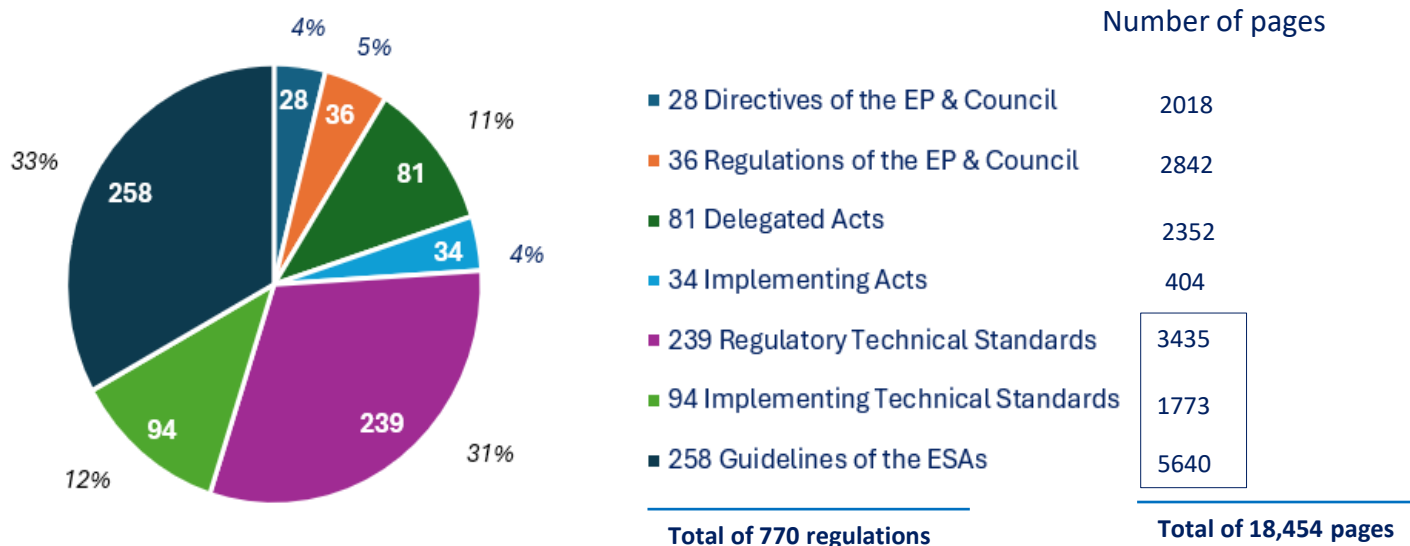
The framework is proposed as a conceptual analytical tool whose usefulness will ultimately depend on its application across different regulatory domains and by different researchers.

Agenda

1. How extensive is EU financial services legislation and who actually develops most of the detailed regulatory framework?
2. What is regulatory complexity?
3. Regulatory complexity on the European policy agenda
4. The **Regulatory Complexity Framework** - Which self-reinforcing mechanisms drive regulatory complexity, and how can they be weakened?
5. Positioning the Regulatory Complexity Framework within the international policy & regulatory debate
6. Conclusion
7. footnotes

1. How extensive is EU financial services legislation and who actually develops most of the detailed regulatory framework?

1. The regulatory landscape ¹



This is the regulatory landscape. But the really interesting observation is not the volume—it is where most of these rules originate.

¹ The ESA-Guidelines are included because Article 16, paragraph 3, of the ESAs' founding regulations stipulates that "The competent authorities and financial institutions shall make every effort to comply with those guidelines and recommendations." Therefore, applying these guidelines is not optional.

1. Who develops most of the detailed regulatory framework?

Key observation: Although the European Parliament and Council establish the legislative framework, **the detailed content of EU financial services regulation is developed predominantly by the European Supervisory Authorities through technical standards and guidelines, with the European Commission formally adopting the technical standards proposed by the ESAs.**

This means:

- Complexity is increasingly generated outside the primary legislative process
- Detailed technical rules have become the dominant source of regulatory expansion
- Democratic legislators increasingly determine what should be regulated, while specialized regulators increasingly determine how it is regulated.

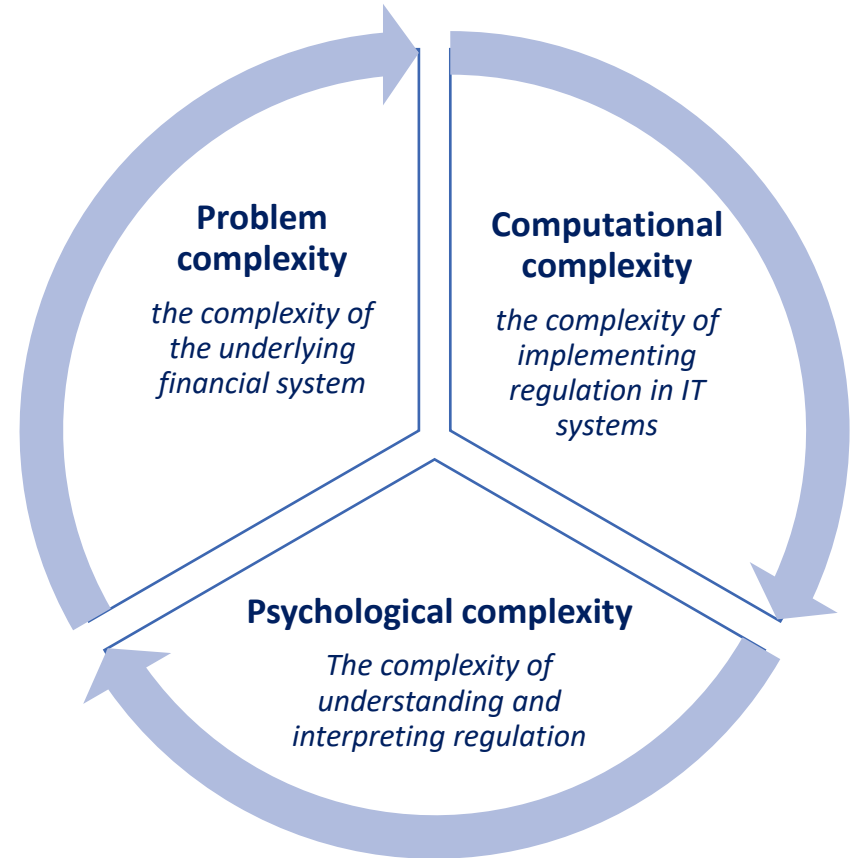
2. What is regulatory complexity and why does it arise?

2. What is regulatory complexity and why does it arise?

Regulatory complexity consists of three interrelated dimensions:

1. Financial markets become more sophisticated and interconnected creating **problem complexity**. This requires more sophisticated regulation.
2. More sophisticated regulation will increase **computational complexity**, as firms require increasingly elaborate IT systems to implement regulatory requirements
3. More sophisticated regulation also increase **psychological complexity**, as it becomes progressively more difficult for firms, supervisors and policymakers to understand, interpret and oversee the regulatory framework

These three dimensions describe the nature of regulatory complexity. They do not explain why complexity continues to increase. The following section therefore identifies ten complexity-generating drivers.



3. Regulatory complexity on the European policy agenda

3. Regulatory complexity on the European policy agenda



“EU Competitiveness Compass - A simplified, trust-based regulatory framework" (January 2025): ¹

- **EU Competitiveness Compass** – A simplified, trust-based regulatory framework (January 2025)
- One of the key measures for the coming years will be the **simplification and codification of EU legislation**, including financial sector legislation and regulations
- Simplification must be based on **a regulatory framework based on trust and incentives rather than detailed control**

Observation: *the Competitiveness Compass identifies simplification as a strategic objective but does not provide a systematic analysis of the self-reinforcing mechanisms that generate regulatory complexity. This presentation complements that agenda by analysing the self-reinforcing mechanisms that generate regulatory complexity and the institutional reforms that can weaken them.*

3. Regulatory complexity on the European policy agenda

Christine Lagarde calls for tougher rules on 'darker corners' of finance

ECB president wants regulation beefed up for non-banks such as hedge funds, private equity and insurers



The ECB president has called for financial regulators to tighten restrictions on hedge funds and other groups in the “darker corners of finance” to reduce their advantage when competing with banks, as she warned against “regulatory rollback”.

She also said a “key shift is becoming increasingly evident — namely, signs of regulatory fatigue, which is creating an uneven playing field for financial institutions”

Regulators should address the imbalance, she argued, “not by lowering standards for banks, but by levelling them up for non-banks that are involved in bank-like activities, or with significant links to the banking sector”

Observation: The ECB emphasizes that simplification should not weaken financial stability or create regulatory arbitrage. This presentation complements that perspective by showing how targeted institutional reforms can reduce unnecessary complexity while preserving the underlying regulatory objectives.

3. Regulatory complexity on the European policy agenda



Frank Elderson, a member of the Executive Board of the ECB, noted in a keynote speech delivered on 14 November 2025 at the ECB Forum on Banking Supervision that **part of the increase in both scale and complexity stems from national variations as many rules do not exist within a single, uniform framework.** ² He therefore advocates further harmonisation of financial services legislation.

Observation: The ECB identifies national variation as an important source of regulatory complexity. This presentation complements that perspective by proposing further harmonisation through, among other measures, the codification of Level 3 supervisory rules.

3. Regulatory complexity on the European policy agenda

In December 2025, the **ECB Governing Council's High-Level Task Force** published 17 recommendations to simplify EU banking regulation.³ The recommendations focus on reducing regulatory complexity, streamlining supervision and modernizing reporting. Key recommendations include:

- Reducing the number of elements in the risk-weighted and leverage ratio framework
- Introducing a materially simpler prudential regime for smaller banks, which expands on the existing EU regime
- Introducing a European governance mechanism that takes a holistic view of the overall level of capital
- finalising the savings and investment union – including completion of the banking union – to foster cross-border integration and allow for more efficient capital markets

The High-Level Task Force proposes that simplification should be guided by four principles:

- Resilience should be maintained – any proposal to change the EU prudential framework should sustain current levels of resilience.
- Effectiveness in meeting prudential objectives needs to be maintained – microprudential, macroprudential and resolution authorities should be able to meet their respective objectives in an effective manner and capture all relevant dimensions of risk.
- European harmonisation and financial integration should be fostered – proposals shall take a European perspective and aim to foster more harmonisation across Member States in areas where a lack of harmonisation is a source of complexity or inconsistency.
- International cooperation should be upheld – international standards and multilateral cooperation are crucial, and all jurisdictions should ensure full, timely and faithful implementation of Basel III.

Observation: The ECB High-Level Task Force identifies the principles that should guide regulatory simplification and proposes a comprehensive programme of simplification measures. This presentation complements that work by explaining why regulatory complexity persists through self-reinforcing institutional mechanisms and by proposing targeted institutional reforms designed to weaken those mechanisms.

3. Regulatory complexity on the European policy agenda



The June 2019 The June 2019 European Systemic Risk Board (ESRB) Advisory Scientific Committee Report No. 8, "Regulatory complexity and the quest for robust regulation", ⁴ argues that:

- **Focus on regulatory details** by supervisors and financial institutions, is caused by extensive and complex regulation
- **This comes at the expense of overview**, a loss of overall, comprehensive understanding and weakened broader strategic perspectives
- **And too many rules can create a false sense of control**, leading to slow or poor responses to major changes in the financial system
- **And financial risks may shift to less regulated parts of the financial system**
- **The committee advocates for a mix of simple, principles-based core rules alongside targeted, outcome-focused measures.**
Regulators are encouraged to stress-test frameworks for unintended consequences and rely more on buffers rather than rigid, multi-constraint thresholds.

Observation: The ESRB highlights the importance of a coherent system-wide regulatory architecture but does not analyse the institutional mechanisms through which complexity develops over time.

3. CEPS Task Force: simplification requires regulatory process re-engineering

The March 2026 CEPS Task Force Report, *More Finance, Less Friction*, argues that regulatory complexity is continually reproduced through the operation of the EU's multi-level regulatory and supervisory architecture.

Its principal proposals include:

- treating Levels 1–3 as an integrated regulatory “delivery chain”;
- applying a “replace rather than add” discipline;
- maintaining an EU-wide inventory and lifecycle for Level 2 and Level 3 instruments;
- testing new regulation for necessity, coherence and duplication;
- limiting over-specification in Level 1 legislation;
- strengthening ex-post evaluation and the accountability of supervisory guidance.

Observation: The report comes close to the central diagnosis of the Regulatory Complexity Framework. The Framework adds a systematic classification of the distinct self-reinforcing mechanisms through which complexity is generated and links each mechanism to a corresponding institutional reform.

3. Regulatory complexity on the European policy agenda

How this analysis complements current EU simplification initiatives 1/2

Institution	Main message	How this presentation complements this approach
European Commission	Regulatory simplification / strengthen competitiveness	Identifies the institutional mechanisms that continually regenerate regulatory complexity and thereby helps target simplification more effectively.
ECB - Lagarde	Preserve financial stability; avoid deregulation	Shows how complexity can be reduced while avoiding perimeter arbitrage (Driver 7)
ECB - Elderson	Reduce fragmentation through harmonisation	Proposes codification of Level 3 rules to reduce fragmentation
The ECB Governing Council's high-level task force	Simplify regulation, supervision and reporting while preserving resilience – prudential effectiveness	Explains why supervisory complexity persists and proposes targeted institutional reforms to weaken its underlying mechanisms
ESRB	Promote a coherent and resilient macroprudential framework	Provides a diagnostic framework for identifying institutional sources of fragmentation and regulatory complexity across the financial system.

3. Regulatory complexity on the European policy agenda

How this analysis complements current EU simplification initiatives 2/2

Overall observation:

Current EU initiatives primarily seek to simplify regulation and supervision. The Regulatory Complexity Framework complements these initiatives by explaining why regulatory complexity repeatedly re-emerges and by providing a structured basis for identifying institutional reforms that may lead to more durable simplification.

The following section develops the Regulatory Complexity Framework. In the concluding section of this presentation, the framework will be positioned explicitly in relation to these European policy initiatives.

4. The Regulatory Complexity Framework: An analytical theory of regulatory complexity

How regulatory complexity is generated - and how it can be weakened

4. What this analysis adds

Question: "Is this presentation just another simplification proposal?"

Answer: Not exactly. The European Commission defines the policy objective, the ECB identifies important constraints and institutional priorities, and the High-Level Task Force proposes practical simplification measures. This presentation complements those initiatives by providing an analytical framework that identifies the self-reinforcing mechanisms generating regulatory complexity and proposes targeted institutional reforms to weaken them. Its aim is to make European simplification initiatives more durable by addressing the mechanisms that continually regenerate regulatory complexity.

4. The Regulatory Complexity Framework

The drivers of regulatory complexity can be distinguished according to the underlying mechanisms through which they generate complexity.

Some drivers generate complexity directly, whereas others create self-reinforcing feedback loops that cause complexity to accumulate over time. The table below classifies the drivers according to the strength of their self-reinforcing potential (Absent, Weak, Moderate or Strong).

Many of the complexity-generating mechanisms analysed in this Framework are reinforced by **accommodative regulation**: the institutional tendency of legislators and supervisors to respond to political, sectoral or operational pressures through additional exceptions, refinements and detailed provisions rather than through simplification.

The central proposition of this framework is that lasting regulatory simplification requires addressing not only the sources of complexity, but also the mechanisms through which complexity reproduces itself over time.

The Regulatory Complexity Framework is an analytical methodology rather than a classification.

The framework presented below is structured as follows:

1. It identifies eleven drivers of regulatory complexity
2. It brings them together in a single taxonomy
3. It explains the mechanism through which each driver generates complexity
4. It assesses the strength of each driver's self-reinforcing potential, and
5. It links each complexity-generating mechanism to an institutional reform designed to neutralise its complexity-generating effects.

4. Drivers 1 – 3: how complexity accumulates

Drivers	Complexity-generating mechanism	Self-reinforcing potential	What institutional reform would weaken this mechanism?
1. One-size-fits-all regulation	Applying identical rules to fundamentally different institutions triggers a self-reinforcing cycle of exceptions, legislative amendments and supervisory interpretation, progressively increasing regulatory complexity.	Weak – complexity becomes self-reinforcing only through accumulating exemptions, proportionality measures and guidance.	1. Mandatory proportionality assessment before legislation – assess proportionality before rules are adopted rather than correcting it afterwards through exemptions and guidance. = proportionality philosophy
2. Crisis-driven regulation	The regulatory reflex to respond to each crisis with additional rules creates successive regulatory layers, while earlier crisis measures are rarely consolidated or repealed, resulting in cumulative regulatory complexity.	Moderate - each crisis tends to add new rules without removing old ones. The mechanism repeats after every crisis, but only when new crises occur.	2. Mandatory post-crisis legislative review - Every major crisis package must undergo a timely, mandatory review to consolidate and simplify the new legislation without weakening supervisory goals. = legislative cycle
3. Regulatory inflation	Unlike crisis-driven regulation, regulatory inflation is a chronic process in which new rules are continuously layered onto existing regulation. This creates overlaps, inconsistencies and unintended loopholes, prompting further legislative responses. Existing regulatory complexity thereby becomes a source of new regulatory complexity.	Strong - rule accumulation generates further amendments and guidance, reinforcing regulatory expansion.	3. (1) Periodic consolidation and codification - periodically consolidate Level 2 and Level 3 measures into a coherent legislative framework. (2) Applying the principle of separation of powers (Trias Politica) - limit extensive delegated rulemaking by restoring the legislature's primary responsibility for policy choices. = legislative management principle

4. Driver 4 – 7: How regulation adapts

Driver:	Complexity-generating mechanism:	Self-reinforcing potential:	What institutional reform would weaken this mechanism?
4. Regulatory dialectic	The regulatory dialectic is a continuous interaction between legislators and financial institutions. New rules prompt adaptation and avoidance strategies, which in turn lead to increasingly detailed regulatory responses. This creates a self-reinforcing cycle of regulatory complexity.	Strong - the classic feedback loop: regulation → avoidance → more regulation → renewed avoidance.	4. Policy objective-based rulemaking – regulate underlying economic functions rather than specific manifestations of behaviour. = <i>legislative design philosophy</i> Illustrative operationalisation: defining regulatory capital according to its genuine loss-absorbing function: • Granular rules fuel the dialectic cycle: Narrowly defining own funds through detailed legal characteristics invites financial engineering. Firms continually redesign capital instruments to satisfy technical criteria rather than their underlying prudential purpose. • Anchor eligibility criteria in economic substance: Recognise regulatory capital according to its genuine going-concern loss-absorbing capacity rather than detailed legal characteristics, thereby reducing incentives for continual redesign of capital instruments.

4. Driver 4 – 7: How regulation adapt

Driver	Complexity-generating mechanism	Self-reinforcing potential	What institutional reform would weaken this mechanism?
5. Complexity as a barrier to entry	Regulatory complexity raises fixed compliance costs, favouring established institutions over new entrants. As beneficiaries of the existing framework, incumbent firms have little incentive to support simplification, reinforcing regulatory complexity over time.	Strong - larger incumbents gain influence over future rulemaking, reinforcing regulatory complexity.	5. Complexity-proportionate regulation – require legislators to assess whether additional complexity creates unnecessary barriers to entry or competitive advantages for incumbent firms. = market-ordering principle Illustrative operationalisation: • Assess Complexity-Induced Barriers to Entry: require every legislative proposal to include an explicit assessment of whether regulatory complexity creates unnecessary barriers to entry or disproportionately favors incumbent firms. Apply a complexity necessity test: where the same supervisory objective can be achieved through simpler obligations, legislators should prefer the less complex alternative, particularly for smaller institutions.

4. Driver 4 – 7: How regulation adapt

Driver	Complexity-generating mechanism	Self-reinforcing potential	What institutional reform would weaken this mechanism?
6. Product obfuscation through rule proliferation	Increasingly complex products prompt increasingly detailed conduct rules, encouraging product redesign and further regulatory refinement.	Strong - product innovation and regulatory refinement reinforce each other, generating increasingly detailed conduct regulation.	6. Principle-based public-law conduct regulation anchored in private law – interpret public-law conduct requirements through established private-law principles and judicial precedent rather than through an ever-expanding body of supervisory guidance and administrative interpretation. = Regulatory philosophy Illustrative operationalisation: Explicitly incorporate the established private-law principles of reasonableness and fairness (Article 6:2 of the Dutch Civil Code, DCCDCC), the law of tort (Article 6:162 DCC) and the duty of care of a reasonably competent contractor (Article 7:401 DCC) into the core conduct provisions of the Dutch Financial Supervision Act (Wft). This would create a single normative framework for both civil liability and public supervision, reducing the need for an ever-expanding body of supervisory guidance while maintaining a high level of legal protection..

4. Driver 4 – 7: How regulation adapt

Driver	Complexity-generating mechanism	Self-reinforcing potential	What institutional reform would weaken this mechanism?
7. Perimeter arbitrage (entity-based regulation)	Regulatory arbitrage gives rise to new financial activities at the regulatory perimeter. These activities are typically regulated through separate sector-specific regimes rather than being integrated into a coherent activity-based regulatory framework, creating an increasingly fragmented prudential architecture.	Strong - the classic feedback loop: tighter regulation → migration → perimeter expansion → renewed migration.	7. Functional (activity-based) regulation —define the regulatory perimeter according to economic functions rather than legal form, reducing the need for repeated perimeter expansion. = Scope (perimeter) principle Illustrative operationalisation: Illustrative operationalisation: Link prudential regulation to the underlying economic activity rather than to the legal form of the institution ("same activity, same risk, same regulation"). For example, non-bank private credit providers and leveraged investment funds that extend credit for their own account should be subject to the same prudential rules as banks.

4. Drivers 8 – 10: Institutional limits

Drivers	Complexity-generating mechanism	Self-reinforcing potential	If this is the mechanism, what institutional reform would weaken it?
8. Epistemic capture through excessive complexity (limits of regulatory governability)	Increasing technical complexity increases supervisory dependence on industry expertise, encouraging further technical complexity.	Moderate–Strong - increasing complexity reinforces supervisory dependence on industry expertise, encouraging further technical complexity.	8. Structural complexity limits - require exceptionally complex products or organisational structures to demonstrate a clear public-interest benefit before approval. = governance principle
Illustrative operationalisation 1: Legislators could require that particularly complex organisational structures or financial products demonstrate a clear prudential or public interest benefit before they are permitted: • Revers the burden of justification: force financial institutions to clearly demonstrate that a complex structure or market innovation serves a demonstrable public-interest objective before it is permitted. • Impose bright-line simplicity caps: authorize supervisors to restrict or require simplification of corporate structures and financial activities that become beyond the limits of effective public oversight. • Reduce epistemic dependency: stop accommodating unnecessary technical sophistication by treating systemic unmanageability as a primary prudential risk rather than a neutral market evolution.			
Illustrative operationalisation 2: The Capital Requirements Directive allows supervisory authorities to impose a temporary management ban on senior managers responsible for serious regulatory breaches. Dutch implementation, however, follows established principles of criminal law, requiring proof that the executive personally ordered or directed the unlawful conduct. In large financial institutions, where responsibilities are extensively delegated, this threshold is rarely met. Consequently, a supervisory tool intended to strengthen executive accountability becomes difficult to apply in practice, creating pressure for further legislative refinement or additional supervisory powers.			
This illustrates how legal complexity can progressively undermine the practical enforceability of supervisory powers, thereby creating pressure for further legislative refinement.			



4. Drivers 8 – 10: Institutional limits

Driver	Complexity-generating mechanism	Self-reinforcing potential	What institutional reform would weaken this mechanism?
9. Regulatory accommodation	This mechanism reflects an institutional tendency to subordinate the normative objective of regulation to considerations of political or economic feasibility. While the formal regulatory objective is retained, its practical effect is diluted through exceptions, favourable definitions, transitional arrangements and preferential regulatory treatments. The resulting inconsistencies subsequently require additional regulatory measures, creating a self-reinforcing cycle of regulatory complexity.	Strong - regulatory accommodation generates further exceptions and refinements, reinforcing regulatory complexity.	9. Pure prudential rulemaking - ensure that prudential legislation is designed primarily around its underlying prudential objective rather than accommodating political, sectoral or transitional considerations. = legislative architecture principle Illustrative operationalisation: The CRR should pursue a single prudential objective: ensuring sufficient going-concern loss-absorbing capacity. Accordingly, legislators should require all recognised regulatory capital instruments to absorb losses while the institution remains a going concern. Instruments designed primarily for gone-concern loss absorption should instead be addressed exclusively within the BRRD resolution framework: • Preserve a Single Prudential Objective: ensure that the CRR pursues only one prudential objective: maintaining sufficient going-concern loss-absorbing capacity. Objectives relating primarily to resolution should be addressed exclusively within the BRRD framework. • Align Capital Instruments with Their Regulatory Purpose: recognize as regulatory capital only those instruments that genuinely absorb losses while the institution remains a going concern. Instruments designed primarily for gone-concern loss absorption should be regulated within the BRRD framework.

4. Drivers 8 – 10: Institutional limits

Drivers	Complexity-generating mechanism	Self-reinforcing potential	What institutional reform would weaken this mechanism?
10. Institutional steering impulse	Institutional steering impulse is the inherent tendency of delegated regulators to progressively translate open legislative principles into increasingly detailed technical standards, guidelines and supervisory interpretations. This creates a self-reinforcing expansion of regulatory complexity.	Strong - delegation creates institutional incentives for progressively expanding the regulatory framework through Guidelines, RTS, ITS and broader interpretation of legislative mandates.	10. Reinforce the separation between legislation and supervision - ensure that delegated rulemaking implements rather than progressively extends legislative policy choices. = Institutional competence principle <i>Why this reform? Delegation creates institutional incentives for supervisory authorities to expand regulatory scope through Guidelines, RTS and ITS. Over time, this reinforces the structural tendency towards regulatory expansion and progressively shifts rulemaking from the legislature to supervisory authorities.</i> Illustrative operationalisation: Establish precise statutory limits on Level 2 and Level 3 rulemaking powers and introduce periodic legislative reviews of supervisory guidelines. • Reclaim Legislative Supremacy: Reserve all fundamental policy choices and significant extensions of the regulatory perimeter to the legislative process, preventing the gradual expansion of supervisory mandates through interpretation alone. Bind Discretionary Execution: confine supervisory powers strictly to the technical enforcement of clearly defined statutory text, limiting the use of open-ended statutory mandates that invite expansion. Codify the normative core of Level 3 instruments in Level 1 or 2 and retain only genuinely non-binding good practices at Level 3.

4. Driver 11: Cognitive limits

Driver	Complexity-generating mechanism	Self-reinforcing potential	If this is the mechanism, what institutional reform would weaken it?
11. Over-fitting bias	Regulation is repeatedly tailored to previous crises, increasing complexity by adding increasingly detailed and highly calibrated rules that improve resilience against known risks while reducing resilience to future, unforeseen risks.	Strong - each crisis encourages increasingly detailed rules designed to prevent the last crisis, reinforcing regulatory complexity and reducing adaptability to future risks.	11. Forward-looking regulatory design – complement retrospective rulemaking with systematic scenario analysis and stress testing against future risks. = legislative design principle Illustrative operationalisation: Prefer simple and robust prudential safeguards wherever equivalent regulatory outcomes can be achieved. For example, apply a higher minimum output floor (e.g. 100%) to ensure adequate capitalization even where internal models underestimate risk, thereby also eliminating opportunities for regulatory capital optimization through the internal model approach, rather than responding with ever more detailed model requirements.

5. Positioning the Regulatory Complexity Framework

5. International policy debate on regulatory complexity 1/2

Recent work by the OECD, IMF, FSB, BIS and the European banking Institute demonstrates that regulatory complexity has become an international policy concern. Their analyses focus primarily on regulatory burden, prudential resilience, implementation and regulatory governance. The Regulatory Complexity Framework complements these perspectives by explaining why regulatory complexity repeatedly re-emerges through self-reinforcing institutional mechanisms.

5. International policy debate on regulatory complexity 2/2

Organisation	Most relevant document	Main analytical focus	Added analytical value of the Regulatory Complexity Framework
	Smart Regulations, Strong Business: Enabling Growth and Societal Protection in a Fast-Changing World, 3 June 2026 ⁵	Assessing the economic impact of regulatory burden and identifying effective pathways for regulatory simplification. Emphasizes the need to address the root causes of regulatory burden and complexity but does not systematically analyse the underlying complexity-generating mechanisms	Explains why regulatory complexity continues to emerge despite repeated simplification initiatives
	Euro Area Policies: 2026 Annual Consultation, July 2026 ⁶	Financial stability, proportionality and simplification without weakening prudential standards	Explains the institutional mechanisms through which complexity persists while preserving financial stability and prudential objectives.
	FSB Work Programme for 2026 — 3 February 2026 ⁷	Modernization of financial regulation and supervision, emerging systemic risks and implementation monitoring	Explains why regulatory frameworks repeatedly require adaptation through recurring self-reinforcing institutional mechanisms.
	Basel Committee Work Programme and Strategic Priorities for 2025–26 ⁸	Prudential design, Basel III implementation, risk assessment and banking-system resilience	Explains the institutional mechanisms through which regulatory frameworks progressively accumulate complexity, thereby increasing the need for continual adaptation and monitoring.

5. How the Regulatory Complexity Framework complements the European Policy Debate 1/4

Institution	Main analytical focus
European Commission	Regulatory simplification as a strategic policy objective while preserving competitiveness and trust-based regulation
ECB	Preserve financial stability, promote supervisory harmonisation and avoid regulatory arbitrage.
ECB High-Level Task Force	Practical simplification of prudential regulation, supervision and reporting while maintaining resilience.
European Banking Institute	Simplifying the architecture of EU financial law through greater coherence and a clearer legislative structure.
European Banking Authority (2026) ⁹	Develops a broad simplification agenda for the banking rulebook and broadly aligns with—and further operationalizes parts of—the direction set out in the ECB Simplification Framework Report, particularly through targeted simplification of the prudential and resolution capital stacks.
CEPS/ECMI/ECRI Task Force (2026) ¹⁰	Re-engineering the EU regulatory “delivery chain”, applying a “replace rather than add” discipline, managing the stock and lifecycle of Levels 2 and 3 instruments, and strengthening supervisory convergence and accountability.

5. How the Regulatory Complexity Framework complements the European Policy Debate 2/4

Institution	Main analytical focus
European Insurance and Occupational Pension Funds Authority (EIOPA) ¹¹	Sets out a balanced, EU-wide approach to simplification and burden reduction, subsequently implemented through substantial reductions in Solvency II reporting requirements and Level 3 guidance.
European Securities Market Authority (ESMA) ¹²	Pursues simplification across rulemaking, supervision and data, with flagship initiatives on “report once” transaction reporting, integrated funds reporting, the retail investor journey and risk-based supervision, while preserving investor protection and market integrity.

5. How the Regulatory Complexity Framework complements the European Policy Debate 3/4

Contribution of the Regulatory Complexity Framework: the Regulatory Complexity Framework **complements** these initiatives by providing a systematic analytical framework that:

1. Distinguishes **eleven self-reinforcing institutional mechanisms** that generate and perpetuate regulatory complexity
2. Systemises existing diagnoses of **why regulatory complexity persists despite successive simplification efforts**, and
3. **Links each mechanism to a targeted institutional reform designed to weaken its complexity-generating effect** while preserving the underlying regulatory objectives, and
4. Develops these insights into a **broader legislative design philosophy - the Complexity Justification Principle** - under which additional legislative complexity must be justified by demonstrating that equivalent regulatory outcomes cannot reasonably be achieved through a simpler legislative construct.

5. How the Regulatory Complexity Framework complements the European Policy Debate 4/4

Applying the Complexity Justification Principle

European Union:

Current assessment includes Impact Assessment, Better Regulation Guidelines, Regulatory Scrutiny Board, and the Competitiveness Compass.

Additional assessment criterion proposed: *Demonstrate why equivalent regulatory outcomes cannot reasonably be achieved through a simpler legislative construct.*

Illustrative national application: the Netherlands

Current assessment includes 'Wetgevingsbeleid voor kwalitatief goede regelgeving', Integraal Afwegingskader (IAK), Adviescollege Toetsing Regeldruk (ATR), Kenniscentrum voor Beleid en Regelgeving (KCBR), Haagse Contactgroep Betere Regelgeving.

Additional assessment criterion proposed: *Demonstrate why equivalent regulatory outcomes cannot reasonably be achieved through a simpler legislative construct.*

5. The *Regulatory Complexity Framework* in the academic/Policy literature 1/2

Academic literature	Main analytical focus	Contribution of the Regulatory Complexity Framework
European Banking Institute (2026) ¹³	Identifies institutional fragmentation, the erosion of the Lamfalussy process and the proliferation of Level 2 and Level 3 measures as key drivers of regulatory complexity and develops a methodology for simplifying the architecture of EU financial law. Basic concept of simplification: structural and architectural simplification of the regulatory framework	Explains the recurring institutional mechanisms through which regulatory complexity is generated, reproduced and amplified over time.
Julia Black and Robert Baldwin (2010) ¹⁴	Regulatory governance and risk-based regulation: how should regulatory systems be designed and governed?	Explains why risk-based regulatory systems progressively accumulate complexity.
Herrebosch, Willems & Popelier (2026) ¹⁵	Measures regulatee discretion by developing a discretion index distinguishing goal-based, rule-based and hybrid regulation.	Explains why increasing legislative discretion and rule proliferation emerge through recurring institutional mechanisms.

5. The Regulatory Complexity Framework in the academic/Policy literature 2/2

Academic literature	Main analytical focus	Contribution of the Regulatory Complexity Framework
Cannata & Serafini (2025) ¹⁶	Develops a pragmatic methodology for simplifying EU banking regulation while preserving prudential effectiveness, focusing on legislative architecture, proportionality and operational simplification.	Explains the recurring institutional mechanisms through which regulatory complexity is generated, reproduced and amplified over time, thereby complementing pragmatic simplification initiatives with an analytical explanation of why complexity persists.
Aikman, Galesic, Gigerenzer et al. (2021) ¹⁷	Demonstrates that under uncertainty simpler regulatory approaches can sometimes outperform more complex ones and may lead to more robust prudential outcomes.	Explains why increasingly complex regulation nevertheless continues to emerge by identifying the institutional mechanisms that generate and reinforce legislative complexity, and by proposing institutional reforms that support a legislative preference for simpler regulatory constructs where equivalent outcomes can be achieved.

The existing academic studies primarily examine the design of effective regulation, the degree of discretion afforded to regulated entities, and the appropriate scope of prudential mandates. The Regulatory Complexity Framework complements this literature by explaining why regulatory complexity repeatedly emerges through recurring self-reinforcing institutional mechanisms and by providing a systematic methodology for identifying those mechanisms.

6. Conclusion 1/2

Conclusion: Regulatory complexity has emerged as a strategic challenge in both the European and the international policy debate. The Regulatory Complexity Framework presented in this analysis contributes to that debate in three distinct ways.

1. Analytical and methodological contribution

The **Regulatory Complexity Framework** identifies eleven conceptually distinct self-reinforcing mechanisms through which complexity is generated and reinforced, proposes *institutional reforms* designed to neutralise their complexity-generating effects, and illustrates their practical application of those reforms through concrete examples.

2. Normative contribution

These *institutional reforms* point towards a broader legislative design philosophy: the **Complexity Justification Principle**. Under this principle, every additional element of legislative complexity requires an independent justification. Additional legislative complexity should be introduced only where equivalent regulatory outcomes cannot reasonably be achieved through a simpler legislative construct.

6. Conclusion (alternative

3. Procedural contribution

The ***Complexity Justification Principle can be incorporated as an additional assessment criterion within existing legislative quality frameworks***, including the European Union's Better Regulation Framework and comparable national systems of legislative quality assessment. Rather than replacing existing evaluation criteria, it complements them by requiring legislators to demonstrate explicitly why additional legislative complexity is necessary.

The proposed institutional reforms are not intended to reduce regulatory complexity directly, nor to eliminate the underlying institutional mechanisms themselves. Rather, they are designed to neutralise the complexity-generating effects of those mechanisms while preserving the fundamental objectives of financial regulation. Lasting regulatory simplification is therefore approached indirectly: not by repeatedly simplifying the regulatory framework itself, but by weakening the institutional processes through which regulatory complexity is continually generated and reinforced.

Although financial services legislation provided the starting point for this analysis, the resulting Regulatory Complexity Framework is intended as a generic analytical methodology for understanding regulatory complexity and supporting complexity-conscious legislative design across different regulatory domains.

8. Footnotes

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8. Footnotes

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