

Towards a Coherent EU Regime for Supply Chain Finance: Lessons from recent Failures and the Case for an EU SCF Regulation?

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Abstract

Supply chain finance, trade finance, and receivables finance are essential channels of working capital to European corporates and SMEs, yet they inhabit a fragmented regulatory and private-law environment in the European Union. This article assesses the current EU treatment of these activities across prudential, conduct, and market infrastructure rules and identifies gaps exposed by failures including Greensill (2021) and recent insolvencies (and resulting ongoing investigations) such as First Brands (2025) and Tricolor (2025). It argues for a targeted, modular EU Supply Chain Finance Regulation—drawing on successful elements of the Securitisation Regulation (data standards and repositories) and adding conflict-of-laws certainty, interoperable e-notice functionality, servicer conduct, and private credit transparency—to enhance harmonisation, efficiency, and stability, and to advance the EU’s Savings and Investments Union (SIU). It also explains the political economy reasons reforms have been missed to date, approximates the opportunity costs of continued non-reform, and sets out how such a Regulation

would strengthen the EU’s single market for both the real economy and for financial services, in particular in tandem with the revised EU Securitisation Regulation.

Introduction

Supply chain finance (SCF), trade finance, and receivables finance underpin the real economy by shortening cash-conversion cycles, smoothing working capital volatility, and distributing credit risk along global value chains. The efficient financing of trade and supply chains remains essential to the competitiveness of European industry. These instruments underpin vast volumes of short-term credit (estimated at over €800 billion annually across the EU) but are not supported by a unified legal foundation.

Despite decades of financial markets integration, these activities remain subject to fragmented national rules and supervisory gaps in the European Union (EU). Core prudential, conduct and market infrastructure rules apply where providers are banks or where structures constitute securitisations, but there is no horizontal EU instrument that addresses the defining features of SCF, reverse factoring and receivables finance as such.

This fragmentation has real consequences: uneven investor and creditor transparency, inconsistent insolvency outcomes, operational and legal risk frictions, and potential cliff effects in corporate liquidity profiles. The central policy question is whether the EU should adopt a framework analogous to, but distinct from, the Securitisation Regulation—particularly as regards common definitions, minimum disclosure and data standards, and use of data repositories—to drive cross-border harmonisation, efficiency and stability in support of the EU’s Savings and Investments Union (SIU).

This article maps the current EU regulatory perimeter for SCF, trade and receivables finance; identifies the core mismatches it creates; and assesses whether a purpose-built EU “SCF Regulation”¹ would be justified. It draws on lessons from market disruptions associated with reverse factoring and receivables monetisation, including Greensill (2021) and more recent insolvencies in 2025 such as First Brands and Tricolor (both in 2025), to isolate where structural opacity and legal uncertainty amplified losses or liquidity stress. It then explains why reform has stalled to date and estimates the order-of-magnitude opportunity costs of continuing inaction. The recent decision of the European Commission to withdraw its assignments-of-claims conflicts proposal underscores both the urgency and the need to embed core private-law fixes directly within any SCF-specific instrument.

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¹ Or such other title and acronym that may be politically more palatable.

Defining key SCF concepts: true sale factoring and reverse factoring

The terminology of SCF lacks consistency across jurisdictions. *Trade finance* traditionally encompasses instruments facilitating international commerce—letters of credit, guarantees, and export insurance—whereas *receivables finance* and *supply chain finance* describe mechanisms for monetising trade receivables or payables. SCF typically operates through reverse factoring or payables financing programmes, often administered by financial institutions or fintech platforms.

For analytical clarity, it is necessary to define, in legal and regulatory terms at the level of the highest common denominator, the main product families considered in this article.

True sale factoring denotes the outright assignment (sale) of present and/or future trade receivables by a seller (supplier) to a factor on a non-recourse or limited-recourse basis, typically with ongoing purchase mechanics and servicing either by the seller (as servicer) or the factor. Its defining legal characteristic is a transfer intended to be characterised as a sale (not a security interest) so that, if effective against third parties, receivables and proceeds cease to form part of the seller's insolvency estate, subject to avoidance and debtor-defence rules. Regulatory touchpoints depend on the identity of the factor (bank or non-bank), any structuring into securitisation (tranching of credit risk) and the application of AML/CFT and accounting disclosure frameworks.

Reverse factoring (approved payables finance) denotes a buyer-led programme in which a financier (bank or non-bank) discounts invoices that the buyer has approved for payment, paying suppliers early at a discount and collecting the face amount from the buyer at maturity. Legally, transactions are generally documented as a purchase or discounting of receivables owed by the buyer (or as loans advanced to suppliers with a payment undertaking by the buyer). Economically, reverse factoring extends the buyer's days-payable-outstanding and can mask leverage if issuer-level disclosures are weak. Regulatory touchpoints include prudential rules for bank funders, issuer accounting disclosures of supplier finance arrangements and, where receivables are warehoused or tranced, the Securitisation Regulation. Many reverse factoring programmes are not securitisations because there is no tranching of credit risk.

These product families share the core legal mechanics of receivables assignment (or charge), debtor notice/opposability formalities, debtor defences and set-off, and potential recharacterisation risks (true sale versus security). These transactions engage overlapping but distinct legal domains:

- *Contract law*, governing the assignment or transfer of receivables;
- *Property law*, determining ownership and priority;
- *Insolvency law*, defining rights in debtor default; and

- *Financial regulation*, where funders are banks, payment institutions, or investment funds.

Divergent Member State rules on these issues create the cross-border frictions this article addresses. The absence of a harmonised EU rule for third-party effects of assignments creates uncertainty for investors, servicers, and courts.

The current patchwork: what is regulated, by whom and when?

EU law regulates SCF and receivables finance indirectly, through the identity of providers, the legal form of transactions and the instruments used, rather than through the underlying economic function of accelerating payment against trade receivables.

First, where banks provide SCF or trade finance, they are subject to the Capital Requirements Regulation and Directive (CRR/CRD), each as amended and supplemented. These determine risk weights, credit conversion factors and large exposure limits, and more recently impose granular credit risk management expectations under the European Banking Authority's (EBA) loan origination and monitoring guidelines. Classic trade finance exposures benefit from lower conversion factors reflecting historically low default experience, but reverse factoring exposures tied to a single buyer and programmed payment extensions can present concentrated obligor and tenor-extension risk that default metrics do not fully capture. Pillar 3 disclosures provide some transparency at the regulated firm level but do not produce transaction-level visibility for investors, suppliers or buyer-company creditors. These rules do not extend to non-bank funders or FinTech platforms.

Second, where receivables are pooled and funding is tranced, the Securitisation Regulation (currently in the process of being reformed further) applies. This regime imposes due diligence and risk retention requirements on institutional investors and sponsors, homogeneity and simplicity criteria for simple, transparent and standardised (STS) securitisations, and mandatory disclosure to investors via standardised templates and, for public securitisations, reporting to securitisation repositories. It delivers robust, machine-readable loan-level data and lifecycle reporting to Securitisation Repositories, chiefly the European DataWarehouse that also acts as the Loan Level Data Repository for the Eurosystem; however it applies only where there is tranching of credit risk. Much of the SCF (and the factoring) market—particularly reverse factoring facilities where a single senior funder discount approves payables without subordinated tranches—sits outside the scope of the Securitisation Regulation.

Third, conduct and operational risk rules apply by reference to the regulated status of the provider rather than the product. Payment institutions, e-money institutions, and banks offering platform-based SCF are subject to PSD2 and, prospectively, the PSD3/Payment

Services Regulation reforms on conduct, strong customer authentication, and data access. These payment services rules only tangentially cover SCF transactions, nor do they touch asset perfection rules, thus leaving issues untouched. The same is true with respect to the rules described below.

The EU's Digital Operational Resilience Act (DORA) applies to banks and other in-scope financial entities operating SCF platforms, strengthening ICT risk and third-party outsourcing controls. Non-bank factoring providers, however, remain outside many of these frameworks unless they are authorised as credit institutions or fall within specific national regimes.

In parallel, the EU has adopted a dedicated regime for the servicing and purchase of non-performing credit agreements originated by credit institutions—the Credit Servicers and Credit Purchasers Directive (EU) 2021/2167 (the CSD). While the CSD introduces authorisation, passporting and conduct-of-debtors rules for NPL servicers, its scope is generally limited to non-performing bank credit agreements and therefore does not directly capture most SCF and receivables purchases. Nonetheless, the CSD could offer design cues for an SCF framework namely minimum servicing, outsourcing and complaints handling standards, information handover obligations on portfolio transfers and a cross-border passport for servicers. Any EU SCF framework regulation should be calibrated not to duplicate or conflict with the CSD.

Fourth, accounting and market integrity supervision has addressed reverse factoring disclosure gaps incrementally. ESMA and the IASB have pressed for enhanced disclosures of reverse factoring arrangements—particularly around liquidity risk, maturity profiles and concentration of payables—under IAS 7 and IFRS 7. These improvements are principles-based and rely on materiality judgments. There is no binding EU-level template comparable to securitisation disclosure.

Fifth, private law and insolvency frictions persist. The EU lacks harmonised rules for the third-party effects (*erga omnes*) of assignments of claims, perfection and priority, or for the characterisation of true sale versus secured lending in receivables purchases. The Commission's 2018 proposal on the law applicable to the third-party effects of assignments of claims progressed to a Council general approach but, in October 2025, was formally withdrawn due to the absence of a foreseeable inter-institutional agreement. Cross-border programmes must therefore continue to navigate divergent national rules on notification, registration, debtor protections and set-off, with knock-on effects for enforceability opinions, investor certainty and pricing. The EU Insolvency Regulation provides jurisdictional coordination but leaves core property and priority rules to national law.

Finally, the EU's existing horizontal policy tools are partial fits. The existing Late Payment Directive and the proposed (and in parts quite problematic) Late Payment Regulation target payment discipline rather than financing transparency. Instead, the existing Directive and the proposed Regulation promotes prompt settlement but is

silent on financing structures. The Unfair Trading Practices Directive in the agri-food chain regulates buyer conduct (in context of SCF the focus is on preventing late payments) but not funding structures. AML/CFT controls address trade-based money laundering risks through general frameworks rather than SCF-specific controls. The Corporate Sustainability Reporting Directive (CSRD) will improve working capital disclosures and supply-chain metrics but does not impose product-specific transparency.

The result of the above is a bifurcated landscape: securitised receivables enjoy data standardisation and repository-backed transparency; non-tranched SCF and factoring/receivables purchases do not. Legal conflict-of-laws uncertainty and heterogeneous debtor protections compound the opacity both domestically as well as in a cross-border setting.

Cross-border private-law complications in solvent and insolvent scenarios

SCF transactions that traverse Member State borders (and choice of governing law in transactions – including governing laws of non-EU Member States – such as English law to assets located in EU Member States) must navigate divergent rules on assignment effectiveness, publicity, debtor protections and set-off, both in going-concern and distress contexts.

In solvent scenarios, variations in notification and anti-assignment clauses, formalities for third-party effectiveness, and limits on bulk assignment affect whether the assignee acquires a proprietary interest or only a contractual claim.

In insolvency, differences in suspect periods, hardening rules, preferences, and the extent to which receivables are segregated from the seller's estate can lead to materially different recoveries for funders, particularly where debtors, sellers, and funders are established in different Member States. The Insolvency Regulation coordinates jurisdiction and recognition, but it does not harmonise property effects; the law of the insolvency proceedings (*lex concursus*) interacts unevenly with the law of the substantive rights and obligations (*lex causae*) and local publicity requirements, creating litigation risk that inflates pricing and depresses advance rates in cross-border programmes.

The typical national-law traps (both in a solvent and insolvent context) in cross-border SCF transactions include:

- *Publicity and notice divergences*: some systems require debtor notice or registry filing for third-party effectiveness; others recognise undisclosed assignments. A single SCF programme spanning multiple debtors across Member States may therefore be perfected in one jurisdiction but vulnerable in another.

- *Debtor defences and set-off*: the extent to which debtors may assert contractual defences or set-off against assignees varies, especially where anti-assignment clauses are enforceable or consumer/SME protections apply.
- *True sale versus security characterisation*: criteria for re-characterisation differ; in stress, courts may treat an assignment as security, exposing funders to insolvency claw-back and pari passu challenges.
- *Commingling and collections risk*: segregation and trust-law concepts are unevenly available; where sellers collect on behalf of funders without statutory segregation, cash may fall into the estate on insolvency, delaying or diminishing recoveries.
- *Conflict-of-laws uncertainty*: absent a uniform EU rule for third-party effects (and following the withdrawal of the assignments proposal), parties face

persistent uncertainty over the applicable law governing priority, especially where debtor location, assignor seat and payment account location diverge.

Jurisdictional snapshot: notice and perfection requirements for receivables assignments across the EU-27 (true sale factoring and reverse factoring)

The following high-level, strictly practitioner-oriented matrix contrasts, for each Member State, the typical approach to debtor notice (to cut off discharge to the assignor), third-party effects/perfection (opposability against creditors and in insolvency), treatment of anti-assignment clauses, and the existence of commonly used public filing/registry mechanisms. It is indicative only to highlight the issues on divergence and thus, as in every SCF transaction, must be verified against current local law, sectoral statutes (e.g., special factoring regimes), public-sector receivables rules and case law for transaction purposes.

Jurisdiction	Debtor notice to bind debtor	Third-party effects/perfection (opposability)	Anti-assignment clauses	Public filing/registry commonly used
Austria	Not required for validity; debtor protected until notice	No general filing; effectiveness inter partes on assignment; insolvency claw-back rules apply	Generally effective inter partes; carve-outs in some contexts	No general receivables registry
Belgium	Notice strengthens position; silent assignment possible	National Pledge Register widely used for non-possessory pledges; assignment opposability depends on form and timing	Often effective; Pledge Law mitigates for pledges	National Pledge Register (movables)
Bulgaria	Notice advisable; debtor protected until notice	Central Register of Special Pledges for non-possessory pledges; assignment opposability per civil code	Often effective inter partes	CRSP (special pledges)
Croatia	Notice advisable; debtor protected until notice	Movables/claims security via FINA register; assignment opposability per civil code	Often effective inter partes	FINA register
Cyprus	Notice advisable; debtor protected until notice	Charges/assignments over company assets registrable with Registrar of Companies for priority	Often effective inter partes	Companies charge register
Czechia	Notice advisable; debtor protected until notice	Register of Pledges for security interests; assignment opposability per civil code	Often effective inter partes	Notarial Pledge Register
Denmark	Notice advisable; debtor protected until notice	No general filing; assignment opposability per obligations law; claw-back rules apply	Often effective inter partes	No general receivables registry
Estonia	Notice advisable; debtor protected until notice	Commercial Pledge Register for security; assignment opposability per obligations law	Often effective inter partes	Commercial Pledge Register
Finland	Notice advisable; debtor protected until notice	No general filing; assignment opposability per obligations law	Often effective inter partes	No general receivables registry
France	Notification/acceptance to bind debtor unless using Dailly	“Cession Dailly” by bordereau with statutory effects; otherwise Code civil rules (notification/acceptance)	Contractual prohibitions may restrict outside Dailly	Dailly (bordereau), no public receivables registry
Germany	Not required for validity; debtor may pay assignor until notice	No general filing; assignment effective inter partes; insolvency avoidance rules apply	Generally effective inter partes (commercial transactions); monetary claims carve-outs	No general receivables registry

Jurisdiction	Debtor notice to bind debtor	Third-party effects/perfection (opposability)	Anti-assignment clauses	Public filing/registry commonly used
Greece	Notice/acknowledgement commonly required to bind debtor	Factoring law and civil code; registration for pledges; assignment opposability via notice	Often effective inter partes; statutory carve-outs	Pledge registries (movables)
Hungary	Notice advisable; debtor protected until notice	Collateral Registry for movables/claims; assignment opposability per civil code	Often effective inter partes	Collateral Registry
Ireland	Notice advisable; debtor protected until notice	Charges registrable in CRO for priority (companies); assignment opposability via notice	Often effective inter partes	Companies charge register (no general assignment registry)
Italy	Debtor notification/acknowledgement common to bind debtor	Law 52/1991 (factoring) and civil code; certain assignments registrable; notice central to opposability	Often effective inter partes; statutory carve-outs	Sectoral filings; no universal receivables registry
Latvia	Notice advisable; debtor protected until notice	Commercial Pledge Register for claims security; assignment opposability per civil code	Often effective inter partes	Commercial Pledge Register
Lithuania	Notice advisable; debtor protected until notice	Pledge/Mortgage registers; assignment opposability per civil code	Often effective inter partes	Movables/pledge registers
Luxembourg	Notice strengthens position; professional assignment regime exists	2005 law facilitates professional assignment/pledge of claims; strong opposability without public filing	Anti-assignment generally disappplied in professional regime	No general receivables registry
Malta	Notice advisable; debtor protected until notice	Security Interests in Movable Property Register; assignment opposability per civil code	Often effective inter partes	SIMPR (movables)
Netherlands	Silent assignment possible via notarial act or registered private deed; notice later	Third-party effect via notarial deed or registration (e.g., Tax Authority) of private deed; notice for debtor discharge	Often effective inter partes	Deed registration (no general receivables registry)
Poland	Notice not required for validity; debtor protected until notice	No general filing; assignment opposability per civil code; claw-back rules	Often effective inter partes	No general receivables registry
Portugal	Notice advisable; debtor protected until notice	No general filing; assignment opposability per civil code; sectoral rules	Often effective inter partes	No general receivables registry
Romania	Notice advisable; debtor protected until notice	Electronic Archive for Secured Transactions (AEGRM) for security; assignment opposability per civil code	Often effective inter partes	AEGRM
Slovakia	Notice advisable; debtor protected until notice	Notarial Central Register of Pledges; assignment opposability per civil code	Often effective inter partes	Pledge Register
Slovenia	Notice advisable; debtor protected until notice	Register of Non-possessory Liens and Seized Movables; assignment opposability per civil code	Often effective inter partes	Movables/claims registers
Spain	Notice not required for validity; debtor may discharge by paying assignor until notice	No general filing; assignment opposability per civil code; claw-back rules	Often effective inter partes	No general receivables registry
Sweden	Notice advisable; debtor protected until notice	No general filing; assignment opposability per obligations law	Often effective inter partes	No general receivables registry

Notes to table:

- “Assignment opposability per civil code” indicates that third-party effects are governed by general assignment rules (often anchored in timing, “date certain,” and/or debtor notice), subject to insolvency avoidance.
- “No general receivables registry” means there is no uniform public registry, as in the United States with UCC filings, for outright assignments of trade receivables.

However, corporate charges over receivables may still be registrable for priority within security packages (e.g., via company charges or pledge registers).

- Special regimes may apply for public sector receivables, consumer receivables, or specific industries; electronic invoicing systems may impose additional formalities for payments by public administrations.

- Reverse factoring transactions rely heavily on buyer approval and (often) programme documentation to establish opposability; in many systems, debtor notice or acceptance (by the buyer) is integral to enforceability of discounted invoices and discharge mechanics.

The table illustrates that a uniform EU conflicts rule for the third-party effects of assignments, coupled with an interoperable “e-notice standard” (as discussed below), would significantly reduce legal friction and opacity in cross-border SCF, covering both true sale factoring and reverse factoring. There is also a need for clear, uniform rules on when assignments in SCF transactions should not require notice. The current EU situation contrasts sharply with the regimes in the US and UK, even though recent failures in those jurisdictions have highlighted similar opacity weaknesses, as further discussed below.

Comparative perspectives: United States and United Kingdom

Drawing parallels with the United States and the United Kingdom highlights both the feasibility and the policy choices available to the EU in designing a uniform SCF framework.

The US benefits from uniform, market-tested rules for receivables under the Uniform Commercial Code (UCC). Article 9 provides a comprehensive regime for creation, perfection, and priority of security interests and outright sales of accounts and payment intangibles, typically perfected by simple, low-cost public notice filings (UCC1 financing statements). This public notice system materially reduces double-pledging risk and search costs, and its bright-line priority rules support high levels of asset mobility across state lines. Recent 2022 UCC amendments introduced Article 12 on controllable electronic records and clarified “control” as a method of perfection for certain digital assets, signaling a functional approach that accommodates technology evolution. On transparency, while there is no SCF-specific federal rulebook, the US accounting standard-setter adopted targeted disclosure requirements for supplier finance arrangements to improve buyer-side transparency in financial statements. At the market infrastructure level, securitisations of trade receivables benefit from established disclosure and due diligence expectations under federal securities law for public deals, and from robust private placement practice for 144A transactions. The US model thus shows that (i) a uniform, notice-based perfection regime, (ii) clear priority rules, and (iii) calibrated financial reporting disclosures can scale receivables finance at a national level without a bespoke “SCF code.”

The UK relies on common-law assignment and security concepts rather than a UCC-style code. Absolute assignments of receivables can be made under statute with written notice to the debtor; equitable assignments are effective inter partes but leave the debtor able to

discharge to the assignor until notice. There is no general public registry for outright assignments of trade receivables; company charges are registrable, but true sales are not typically recorded, which preserves confidentiality but increases diligence burdens and the risk of competing claims remaining undiscoverable ex ante. The Business Contract Terms (Assignment of Receivables) Regulations 2018 restrict contractual prohibitions on assignment in certain business contracts, facilitating invoice finance, while mandatory insolvency set-off, trust-based segregation mechanisms and developed case law shape recoveries and commingling risk. Post-Brexit, the UK maintains a securitisation framework largely aligned in structure with the EU regime, and its Law Commission has recommended a statutory recognition of a third category of property for digital assets and a control-based concept to support modern holding models. On disclosure, UK issuers follow IFRS-based supplier-finance transparency and domestic FRC expectations but, as in the EU, there is no SCF-specific repository for non-securitised programmes.

So what are the implications of the US and UK regimes for the EU? The US demonstrates the efficiency gains of a uniform, notice-based perfection and priority system and the value of targeted buyer-side disclosures for supplier-finance arrangements. The UK illustrates the strengths of a flexible private-law system with powerful market documentation under English law, but also the costs of the absence of a general receivables registry and the reliance on debtor notice to achieve opposability. An EU SCF Regulation could combine the advantages of both: (i) adopt a light-touch, interoperable (e-)notice standard to achieve third-party effects and to curb double-pledging, akin to the UCC’s public notice concept; (ii) provide bright-line priority rules and a safe harbour for true sale; (iii) recognise “control” as a perfection method for specified digital records in line with emerging US/UK approaches; and (iv) layer proportionate buyer-side disclosure and programme-level data templates, while preserving confidentiality through access-controlled repositories. Such calibrated alignment would reduce legal frictions within the EU and facilitate transatlantic and UK-EU market interoperability. More importantly it would reduce opacity issues, a recurring problem in recent insolvencies leading to SCF failures.

Why opacity matters: lessons from recent failures

Market disruptions associated with reverse factoring and receivables monetisation illuminate three recurring fault lines that current EU rules do not address.

1. The first is balance-sheet opacity at the buyer. Reverse factoring often reclassifies what is economically term debt into trade payables, extending days-payable-outstanding without a commensurate shift in disclosed liquidity risk. When programmes are withdrawn or

covenants tighten, the refinancing need migrates from an operating liability to a hard funding need, precipitating a liquidity cliff. The Greensill failure made this dynamic stark. The Greensill collapse demonstrated the risk of transforming commercial receivables into de facto credit instruments without adequate transparency. Investors and regulators discovered that “supply chain finance” had been used to provide unsecured, long-dated corporate loans disguised as short-term trade receivables.

Recent cases reported in market commentary, including the 2025 insolvencies of First Brands and Tricolor, reflect similar patterns: high buyer concentration, aggressive payment-term extensions and opaque reliance on programme continuity created fragility for both buyers and suppliers. In First Brands, a major automotive-parts supplier, multiple financing vehicles were found to have advanced funds against the same pools of receivables. The absence of reliable assignment records and verification procedures created uncertainty over ownership and perfection. Commingled collections and poor data governance accelerated liquidity loss when insolvency struck. Tricolor revealed similar weaknesses from a different angle: an auto-finance group financed through private-credit and warehouse facilities. Its servicer and data failures led to collateral discrepancies and valuation shocks across asset-backed and private-credit markets.

The failures above expose recurring patterns:

- *Double-pledging and ownership opacity*: stemming from inconsistent perfection rules and lack of notice mechanisms;
 - *Servicer conflicts*: where the originator retains control over collections; and
 - *Regulatory perimeter gaps*: leaving certain non-bank platforms and private-credit funds without consistent governance or transparency obligations.
2. The second is information asymmetry for suppliers and investors. Suppliers discount invoices without visibility into programme-level eligibility criteria changes, dilution and disputes history, residual recourse terms, or buyer-level trigger mechanics. Funders and investors in receivables pools lack comparable,

standardised data across jurisdictions on debtor concentrations, historical dilution, obligor-approved versus unapproved receivables, and payables extension practices. Outside securitisation, there is no EU-mandated, machine-readable reporting to underpin risk assessment.

3. The third is legal enforceability friction in cross-border settings. Divergent national rules on assignment effectiveness, non-assignment clauses, debtor defences and set-off increase legal and operational risk, particularly where debtors, suppliers and funders sit in different Member States. In stress, disputes over true sale versus secured loan characterisation and over perfection formalities delay recoveries and undermine collateral value.

The three issues discussed above are not problems of credit per se; they are problems of transparency and legal certainty. They are amenable to solutions the EU has already deployed in securitisation markets.

The case for an EU SCF Regulation: what problem should it and would it solve?

A purpose-built EU SCF Regulation could deliver system-level benefits—harmonisation, efficiency and stability—without unduly burdening well-functioning programmes.

First, it could harmonise definitions and scope. A proposed SCF Regulation could define SCF product families—reverse factoring, payables finance, approved payables financing, receivables purchase and factoring, distributor finance and inventory finance—based on their economic characteristics, not legal wrappers. Clear scope would prevent accidental capture of ordinary trade credit while ensuring economically similar structures are treated consistently across Member States including when and when not notices (and preferably “e-notices” – as discussed below) are required without limiting voluntary notification.

Second, it could standardise data, disclosures and reporting. Borrowing from the Securitisation Regulation’s playbook, the EU could mandate a core disclosure package for SCF programmes above materiality thresholds, proportionate to the audience. For buyer-facing transparency, large in-scope buyers would disclose the existence, size and key terms of SCF arrangements in periodic reports, including the ageing of payables subject to SCF, programme utilisation, concentration of funders, and sensitivity to funding withdrawal. For supplier and investor transparency, funders would produce standardised, machine-readable data templates covering obligor concentrations, historical dilution and disputes, eligibility criteria, average payment-term extensions, recourse terms and payment performance. For non-public programmes, access would be confined to programme participants and investors; for

public instruments, data would flow to repositories. For supervisors, aggregated reporting would enable horizontal monitoring of buyer concentration and term extensions across sectors and Member States.

Third, it could create a fit-for-purpose repository framework. A light-touch “SCF repository” modelled on securitisation repositories could host programme-level reports for public SCF instruments and provide secure access for private transactions to authorised users. Repositories would enhance data continuity, version control and standardisation without imposing public disclosure of competitively sensitive information. ESMA could register and supervise repositories, leveraging existing infrastructure and expertise. In parallel, because the standalone assignments proposal has been withdrawn, the SCF framework should hard-wire data fields that facilitate cross-border priority analysis (e.g., assignment date/time stamps, debtor identifiers and governing law flags) to support enforceability and reduce search costs.

Fourth, it could improve legal certainty for assignments and true sale. While a comprehensive EU secured transactions code remains (currently) elusive,² an SCF Regulation could include targeted conflict-of-laws rules for assignments of trade receivables within in-scope programmes, harmonised debtor protections (including treatment of non-assignment clauses, notices and safe harbours for true sale characterisation where specified criteria are met. This would materially reduce cross-border friction and enhance enforceability.

Fifth, it could embed proportionate conduct and operational standards. Minimum requirements on transparency of recourse, change-in-terms notices to suppliers, fair dealing standards in buyer-sponsor relationships, and baseline operational resilience expectations—aligned with DORA where applicable—would professionalise the market without duplicating sectoral rules. These should include minimum servicer safeguards such as segregation of collections, independent custodial arrangements, periodic third-party audits of data integrity, and demonstrable backup-servicing and continuity planning. Where SCF servicers also service non-performing credit agreements within the scope of the CSD, the SCF regime should recognise CSD authorisations and align overlapping obligations (e.g., outsourcing, complaints handling, debtor communications) to minimise duplication while ensuring that supplier- and buyer-specific protections are preserved in SCF contexts.

Finally, any SCF Regulation could align prudential and sustainability objectives. CRR recognition of standardised SCF data could enable more risk-sensitive capital treatment for demonstrably well-managed programmes. CSRD-adjacent metrics could capture the impact of SCF on SME liquidity and payment discipline, supporting the SIU by fostering a deeper, safer pool of working capital finance.

Exploring the e-notice – what it is and what it is not

An e-notice is a standardised, electronic, time-stamped notice that records and communicates the existence and salient terms of an assignment or pledge of receivables (or approved payables) in a way that is legally effective against third parties, discoverable by relevant market participants, and interoperable across systems and jurisdictions.

In the SCF context, an e-notice serves three core functions. First, it operationalises the third-party effects of an assignment by providing verifiable “publicity” (or, where debtor notice is required for opposability, an auditable, digitally served debtor notice) that cuts off the debtor’s ability to discharge by paying the assignor and fixes priority against competing claimants. Second, it creates a low-friction, searchable record to reduce double-pledging and to support rapid due diligence, particularly in multi-debtor, cross-border programmes. Third, it provides a consistent, machine-readable data footprint that can be consumed by SCF platforms, repositories and supervisory dashboards to monitor risk concentrations and lifecycle events.

Key design elements of an EU e-notice framework could include the following. The legal effect must be clear and uniform. An e-notice should be expressly recognised in EU law as satisfying the applicable publicity, opposability and, where required by national law, debtor-notification requirements for assignments and pledges within the scope of the SCF Regulation. The act of filing or serving an e-notice should fix a legally relevant date and time for priority purposes and for cutting off debtor discharge to the assignor, without requiring physically delivered letters, notarial intervention, or idiosyncratic local filings. Interoperability is critical. Rather than a single monolithic database, the EU could define a common data model and API layer that allows either a central EU utility or interconnected national nodes to exchange standardized e-notices. This would accommodate Member-State preferences (as well as legacy arrangements) while ensuring that a notice filed in one node is discoverable EU-wide. Identity, authenticity and integrity must be guaranteed. Filers and recipients should be authenticated using EU trust services under eIDAS; e-notices should be digitally signed, time-stamped and hashed to ensure tamper-evidence and non-repudiation. Minimal, high-value data fields.

To balance effectiveness, cost and confidentiality, the schema should capture only the data necessary to establish third-party effects and to facilitate searches. Typical fields include assignor and assignee identifiers, debtor identifier(s), receivables universe description (pool or listed invoices), governing law and programme ID, whether the assignment is outright or by way of security, recourse flag, date-time of notice, and lifecycle status (amendment, release, termination).

² See however the discussion of M. Huertas, H. Weiss and F. Schmidt in “Towards a more single regime for security interests in financial instruments and digital assets?” that published in this Journal.

Confidentiality and access controls will remain critical for any success of e-notices in the EU. Unlike in the US with public UCC-style indexing, European markets may require layered access. A two-tier model is perhaps feasible: a “public index” exposing minimal meta-data that enables conflict checks, and a “restricted layer” giving programme participants, authorised investors and supervisors controlled access to richer data.

Lifecycle and event reporting are also important. Any future framework should support amendment, sub-participation reference, partial releases, put-backs and terminations, each with their own time-stamped entries to preserve a clear priority and audit trail. Alignment with repositories and accounting. The e-notice data model should be mapped to SCF repository templates (and, where relevant, to securitisation Article 7 fields) to ensure continuity from primary assignment to secondary market reporting, and to support issuer-level supplier-finance disclosures under IFRS. Technology-agnostic architecture. The system should remain neutral to implementation choices—conventional databases, distributed ledgers or hybrid models—provided they meet the eIDAS-grade trust, time-stamping and integrity requirements.

What an e-notice is not is equally important. It is not a public disclosure of competitively sensitive information about pricing, eligibility or supplier relationships; the model is a targeted legal-effect and anti-double-pledging tool, not a market data tape. It is not a replacement for programme-level contracts, warranties or true-sale analysis; rather, it is the publicity and discovery layer that complements them. Nor is it a full debtor-consent regime; where local law requires debtor notification or acceptance to bind the debtor, the e-notice can be the legally recognised mechanism for serving and evidencing that notification electronically, but it does not change the substantive standard for consent unless the SCF Regulation harmonises it.

Why it matters for the EU single market is straightforward. Today’s Member-State divergences on notice and perfection rules add cost, uncertainty and time to cross-border SCF, particularly in reverse factoring where debtor approval is central. A proportionate, interoperable e-notice standard would create a single EU “publicity rail” for in-scope SCF assignments and pledges, enabling bright-line priority, curbing fraud and double-pledging, and enhancing recoveries in insolvency. It would also enable supervisors to monitor concentration and rollover risk using anonymised aggregates, and it would dovetail with the revised EU Securitisation Regulation by making primary-market assignment events machine-readable and traceable into securitised pools. Properly designed, an e-notice regime delivers the benefits of the US UCC’s notice-filing efficiency while respecting EU confidentiality norms and Member-State legal traditions.

The counterarguments and design risks to any future SCF Regulation

Three more fundamental objections commonly arise. The first is that a new SCF Regulation would duplicate existing rules and burden SME-oriented finance. This risk can be mitigated through calibrated thresholds, proportionality and reliance on existing frameworks. The SCF data templates should be shorter and simpler than securitisation templates, and reporting to repositories should apply only to public instruments or large programmes. Micro-enterprises and purely domestic, low-risk programmes could be exempt or subject to simplified regimes.

The second is that accounting standard setters and issuer-level disclosure reforms suffice. While welcome, those measures do not create cross-programme comparability or ensure continuous, machine-readable data access for participants and supervisors. Nor do they remedy cross-border enforceability frictions. A regulatory framework that institutionalises data standards and legal safe harbours complements, rather than substitutes for, financial reporting reforms.

A further design risk is chilling innovation. To avoid this, the Regulation should be principles-based where possible, with technical standards developed by ESMA and the EBA in consultation with market participants, and with controlled testing environments for novel risk-transfer and digital instruments (e.g., tokenised receivables) to assess proportionality.

Why reform has stalled and what delay costs

Despite repeated post-crisis reviews, clear evidence of market dysfunction and failures targeted SCF reforms have not been adopted at EU level. The obstacles are primarily political-institutional rather than technical. Several factors explain this inertia:

1. *National sovereignty and property law sensitivities*: Harmonising the third-party effects of assignments touches core domestic doctrines of ownership and insolvency priority, prompting Member-State resistance. National property-law sensitivities and subsidiarity concerns make Member States reluctant to cede control over perfection, priority and insolvency-adjacent rules and this thus prolongs fragmentation.
2. *EU institutional fragmentation*: SCF sits across fragmented institutional ownership—spanning DG JUST (private law and conflicts), DG FISMA (financial services), DG GROW (SME policy) and the EU’s AML workstream—has complicated “joined-up” packages that

- combine conflict-of-laws, notice/registry, operational and AML elements—each with distinct priorities and stakeholder networks.
3. *Divergent industry interests*: Banks seek prudential clarity, FinTechs prefer flexibility, private-credit sponsors focused on confidentiality, and corporates and SMEs wary of transition costs—have yielded legislative inertia
 4. *SME cost concerns*: Lawmakers are wary that harmonisation might increase costs for small suppliers.
 5. *Technical and data challenges*: Technical interoperability hurdles for any EU-wide electronic notice or network of interoperable registries (data fields, authentication, liability and language) have slowed consensus.
 6. *Policy crowding*: Capital Markets Union and now SIU, AML reform and digital finance initiatives have monopolised legislative attention.

The Commission's 2018 Proposal for a Regulation on the Law Applicable to the Third-Party Effects of Assignments of Claims (COM(2018) 96) offered a partial remedy to some of the above but was formally withdrawn on 6 October 2025 after prolonged stalemate.

These delays carry tangible economic costs. While precise measurement is difficult, a conservative approximation illustrates material orders of magnitude. Europe's share of the global trade-finance gap suggests roughly €400–€500 billion of unmet demand. If basic harmonisation and assignment certainty recovered even 5–10% of this, €20–€50 billion in additional working-capital credit could flow annually to EU corporates, notably SMEs.

Legal fragmentation and opacity plausibly add 50–100 basis points to discount rates on several hundred billion euros of EU receivables finance, implying multiple billions in avoidable annual funding cost and many times that amount over a five-year horizon.

Episodic failures (e.g., Greensill and recent insolvencies including First Brands and Tricolor) trigger concentrated losses, funding freezes and valuation markdowns across private-credit and structured-credit channels. Even infrequent events can impose tens of billions in market repricing. Cross-border perfection and priority disputes erode recoveries; a modest recovery drag across financed receivables implies multi-billion-euro value leakage over a multi-year horizon.

Taken together, the annual opportunity cost of non-reform plausibly lies in the tens of billions, cumulating to triple-digit billions over five years through foregone lending, excess spreads and episodic contagion. More pressingly, the intersection of SCF with digital finance and private credit compounds risks. Fintech platforms increasingly intermediate assignments through algorithmic marketplaces, while private-credit funds

securitise or warehouse SCF exposures outside the prudential perimeter. Tricolor showed how these channels can transmit losses into institutional portfolios when servicer integrity fails.

Digitalisation offers opportunities—standardised data capture, distributed-ledger verification, and instant e-notice—but without harmonised legal rules, technology alone cannot ensure enforceability or investor protection.

A blueprint for proportionate intervention

Any SCF reform should align with the SIU's objective of deepening European capital markets and directing household savings toward productive financing. An effective EU SCF Regulation could include seven pillars.

First, scope and definitions: clear definitions of in-scope SCF products, exclusions for ordinary supplier credit and one-off bilateral payment arrangements, and materiality thresholds tied to buyer size or programme notional.

Second, participant obligations and servicer conduct: buyer disclosure duties in periodic reports; funder responsibilities for supplier communications, fair dealing and change notifications; eligibility and risk management criteria for programme sponsors; and minimum servicer safeguards including segregation of collections, independent custodial arrangements, periodic third-party audits, and demonstrable backup-servicing and continuity planning. More pressingly any SCF servicer conduct standards should mandate segregation of client funds, independent audits, backup servicing arrangements, and continuity planning.

Third, data standards: short, standardised templates capturing key programme metrics; machine-readable format; proportionate frequencies; confidentiality safeguards.

Fourth, repository regime: ESMA-registered SCF repositories for public instruments and optional/private access models for non-public programmes; interoperability with securitisation repositories where structures straddle regimes.

Fifth, legal certainty and e-notice: given the withdrawal of the horizontal assignments proposal, the SCF Regulation itself should contain a clear conflict-of-laws rule for the third-party effects of receivables assignments within in-scope programmes (e.g., assignor's habitual residence, with targeted exceptions), together with harmonised debtor protections and set-off treatment, safe-harbour criteria for true sale, and recognition of electronic records and signatures consistent with eIDAS. It should also establish an interoperable EU e-notice framework (or network of interoperable national registries) to reduce double-pledging, lower search costs and improve recoveries in insolvency.

Sixth, private-credit transparency and platform governance: proportionate disclosure standards for private-credit funds and non-bank sponsors marketing SCF exposures to EU professional investors (including

concentration metrics, related-party linkages and servicer dependencies), and baseline governance/audit expectations for significant SCF platforms, calibrated to avoid duplicating sectoral rules.

Seventh, supervisory coordination: clear allocation of responsibilities among ESMA (repositories, data standards), the EBA (prudential interfaces, risk management guidance where banks are sponsors) and national competent authorities for conduct oversight; proportionate enforcement tools. This also includes developing tailored guidance for SCF under the new EU AML Regulation to avoid over-de-risking by banks.

To enhance political feasibility, implementation should be sequenced. A pragmatic order would be to embed the conflict-of-laws rule within the SCF Regulation (given the withdrawal of the standalone assignments file) together with a pilot interoperable e-notice standard; then roll out servicer-conduct and operational-resilience rules and private-credit transparency; and finally calibrate any platform-perimeter and AML elements as experience accumulates. This sequencing delivers early legal-certainty gains while pacing compliance impacts for SMEs and sponsors.

Is this all needed in light of market documentation and master agreements?

Unlike derivatives (ISDA) or syndicated lending (LMA), there is no widely adopted, EU-law master agreement for SCF or receivables purchases. Market participants often rely on bilateral templates or on the BAFT Master Participation Agreement and related standards, which are governed by English law or New York law—both third-country laws for EU purposes.

While these frameworks are serviceable, their governing law and jurisdiction choices can complicate enforceability against EU debtors and in EU insolvency proceedings, and they do not solve Member-State publicity and debtor-defence divergences discussed above. A targeted EU initiative could encourage an optional, market-approved master framework under an EU law (or coordinated Member-State law set), with annexes mapping to national publicity, set-off and debtor-protection rules.

Realism suggests, however, that both the EU institutions and industry associations have faced challenges in achieving widespread adoption of master agreements beyond a limited number of well-established product sets. When coupled with varying levels of judicial familiarity with complex cross-border finance and the continued prominence of national private-law concepts, these factors have made it difficult for standardisation initiatives to achieve broad market uptake.

A well-designed SCF Regulation could partially solve the current situation by: codifying a common vocabulary and minimum data/operational standards; mandating recognition of an interoperable e-notice framework; and empowering ESMA/EBA to sponsor optional model

clauses or a light-touch master framework, paired with coordinated judicial training and guidance to promote consistent interpretation across Member States.

Why an EU Regulation—not a Directive—is required to streamline SCF

The choice of legislative instrument is not incidental. For SCF, a directly applicable Regulation is required rather than a Directive because the policy objective is immediate, uniform legal effect on issues that cannot tolerate 27 divergent transpositions.

First, the core problems to be fixed—third-party effects of assignments, priority, opposability, and minimum data/reporting standards—are precisely the areas where Directives have historically produced uneven outcomes through optionalities, gold-plating and delayed or incomplete transposition. The experience with the Late Payment Directive and the Financial Collateral Directive, and even with PSD2's conduct rules, demonstrates how Member-State discretion yields fragmentation that undermines the Single Market. A Regulation ensures maximum harmonisation and removes scope for national deviations that would re-introduce legal frictions.

Second, the SCF framework must embed common technical standards for data templates, repositories and e-notice interoperability, to be set and updated via ESMA/EBA regulatory and implementing technical standards. A Regulation provides the legal chassis for uniform, machine-readable data across the Union and permits iterative updates without reopening 27 national laws. This mirrors the successful architecture of the Securitisation Regulation and DORA, where EU-level RTS/ITS have delivered consistent reporting and operational-resilience baselines.

Third, the subject matter—property-law effects of assignments in cross-border commerce and the free movement of capital and services—squarely engages Art. 114 TFEU. The internal-market rationale justifies a directly applicable instrument where divergent national regimes materially impede cross-border activity and risk regulatory arbitrage. A Directive would perpetuate litigable gaps precisely where legal certainty is needed *ex ante* (e.g., perfection/priority and debtor-defence rules).

Fourth, speed and supervisory convergence matter. Recent failures (Greensill, First Brands, Tricolor) show that opacity and conflicts of law can crystallise into losses rapidly. A Regulation takes effect uniformly on a fixed date, avoids staggered national timelines, and allows ESMA to operate a single registration/supervision regime for repositories and—where relevant—recognise CSDs/DLT MIs/CASPs as trusted data-source operators for e-notice.

Fifth, proportionality and subsidiarity are better served by a narrowly scoped Regulation than by a broad Directive. The SCF instrument can be precisely limited to: (i) definitions and scope; (ii) conflict-of-laws for third-party effects within in-scope programmes; (iii) minimum data standards and repository regime; (iv)

servicer conduct and operational baselines; and (v) an interoperable e-notice minimum. Everything else—domestic contract law, consumer protection, taxation—remains within Member-State competence. By contrast, a Directive would still require extensive national rule-making, recreating heterogeneity the measure seeks to cure.

Finally, coherence with adjacent EU frameworks favours a Regulation. Interoperability with the revised Securitisation Regulation, CRR/CRD calibration, and DORA-style operational standards is best achieved through a directly applicable instrument that can cross-reference and be cross-referenced seamlessly, enabling end-to-end data lineage from primary SCF to securitised pools and a single set of supervisory expectations Union-wide.

In short, only a Regulation can deliver the legal certainty, technical uniformity and supervisory convergence required to make SCF truly cross-border, while remaining tightly proportionate to the Single Market objectives at stake.

How an EU SCF Regulation would strengthen the EU single market—real economy and financial services

A fit-for-purpose SCF Regulation would tangibly reinforce the Single Market on two fronts.

For the real economy, it would reduce legal and operational frictions that currently inhibit cross-border working-capital flows. Uniform conflicts rules and an e-notice standard would allow corporates and SMEs to access pan-EU SCF capacity without bespoke legal work in each jurisdiction, lowering costs and expanding access. Standardised buyer disclosures and supplier communications would improve payment-term discipline and limit the masking of leverage on buyer balance sheets, aligning corporate transparency with investor and creditor protection. Interoperable data standards would also permit automation across e-invoicing and SCF platforms, unlocking scale economies that benefit smaller suppliers. In short, the Regulation would convert fragmented bilateral practices into a predictable, comparable cross-border market, increasing liquidity and resilience in European value chains.

For financial services, the Regulation would enable deeper pan-EU markets for receivables assets with better risk signalling and secondary-market potential. Repository-backed reporting and standardised templates would make non-securitised SCF exposures more comparable across jurisdictions and sponsors, improving investor due diligence and secondary trading. Where SCF assets are securitised, interoperability between SCF repositories and securitisation repositories would streamline reporting, reduce duplication and support the revised Securitisation Regulation's aims. Prudentially, better data and legal certainty would support more risk-sensitive capital treatment for well-managed SCF portfolios. By defining a minimum governance and

transparency baseline for significant non-bank platforms and private-credit sponsors, the Regulation would also curb regulatory perimeter arbitrage, levelling the playing field with bank-sponsored programmes and bolstering financial stability.

Critically, the Regulation's data and legal-certainty rails would be complementary to the revised EU Securitisation Regulation. Where SCF assets back securitisations, the SCF templates could be mapped to Article 7 disclosure fields to reduce friction and improve data lineage from primary financing to securitised pools. An ESMA-supervised SCF repository regime, designed to interoperate with securitisation repositories, would lower compliance costs and enable supervisors to monitor migration of risk between non-securitised and securitised channels. Alignment on definitions (e.g., homogeneity buckets for trade receivables) and on servicer-conduct expectations would further support STS-eligibility where relevant. Together, the SCF Regulation and the revised Securitisation Regulation would furnish a coherent, end-to-end transparency and governance framework for receivables-based finance, supporting scale while preserving stability—exactly the combination the SIU seeks.

Delivering on the SIU and the outlook ahead

At its core, the SIU seeks to mobilise private capital efficiently while safeguarding financial stability and supporting SMEs' access to finance. SCF sits at that nexus. A light-but-effective EU framework would increase investor confidence, reduce legal friction that currently fragments markets along national lines, and promote responsible extension of payment terms without masking leverage.

By mandating a common vocabulary and minimum data rails an EU SCF Regulation would convert a heterogeneous set of bilateral practices into a coherent, transparent ecosystem capable of scaling cross-border. Recent failures have shown that opacity, not the underlying economic function, is the principal vulnerability. The lessons of Greensill, First Brands, and Tricolor are unmistakable. Fragmented national rules on assignment, perfection, and servicing have created an opaque, inefficient, and occasionally dangerous market for receivables finance. The resulting uncertainty constrains liquidity, raises costs, and undermines trust—contrary to the EU's ambitions under the SIU. A SCF Regulation would remedy these deficiencies by clarifying ownership rights, preventing double-pledging, strengthening servicer governance, and improving investor transparency. The economic and systemic opportunity cost of inaction—tens of billions annually—renders continued delay untenable.

The EU already possesses the regulatory technology to fix that—data templates, repositories, proportionate conduct standards and targeted private-law harmonisation. Deploying those tools for SCF would be a measured,

pro-growth step that advances harmonisation and efficiency while reinforcing stability, precisely the balance

the SIU is meant to strike.