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Annual Regulation Outlook 2020

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Annual Regulation Outlook 2020

The Annual Regulation Outlook 2020 highlights the most relevant standards and rules issued by those financial regulatory bodies monitored by the R&D Area at global, European and local level during the last year.

The objective of this Outlook is to provide an overview of the last and most relevant regulatory developments. Therefore, this document does not include all standards and rules published by supervisors and regulators during 2020, but only those that are considered most relevant by interest in the financial sector.

Table of contents

Executive summary
Global publications

The BCBS announced a postponement of the final Basel III reform as a consequence of the COVID-19 pandemic. The IOSCO published consultation report on the use of artificial intelligence and machine learning, as well as a consultative document on the principles of outsourcing services. On the FSB's side, its General LIBOR Transition Guidance is noteworthy.

Relevant publications

Credit Risk

- **(4Q).** The BCBS published a **technical amendment on the capital treatment of securitisations of NPLs**. According to BCBS the securitisations of NPLs are subject to different risk drivers compared to securitisations of PL, requiring a specific treatment to reflect these differences in a risk-sensitive and conservative way.

Recovery and Resolution

- **(2Q)**. The FSB published a **guidance on financial resources to support central counterparty (CCP) resolution and on the treatment of CCP equity in resolution**, that focuses on the assessment of the adequacy of financial resources and of the treatment of equity in the context of resolution.
- **(3Q)**. The SRB published the **Guidance on OCIR** that provides further clarifications on SRB expectations in a variety of affairs. In addition, the SRB published the **Guidance on FMI contingency plans** that sets out the SRB's expectations with regard to the minimum content of contingency plans prepared by banks.

COVID-19

- **(1Q)**. The BCBS announced the **deferral of the implementation of the final Basel III reform** to provide additional operational capacity for banks and supervisors to respond to the immediate financial stability priorities of the global financial system.
- **(2Q)**. The BCBS issued some **measures to reflect the impact of COVID-19** which sets out technical guidance related to the exceptional measures introduced by governments and banks to alleviate the impact of the virus.

COVID-19 (cont).

- **(2Q)**. **The** IOSCO published the **Statement on Importance of Disclosure about COVID-19** and the IASB issued a guidance document on **Accounting for ECL applying IFRS 9 Financial Instruments.**

Digitalization

- **(3Q)**. The IOSCO published a **consultation report on the use of artificial intelligence (IA) and machine learning (ML)** by market intermediaries and asset managers, with the purpose of assisting IOSCO members in providing appropriate regulatory frameworks in the supervision of market intermediaries and asset managers that utilize AI and ML.

Capital, liquidity and leverage

- **(3Q)**. The BCBS published **targeted revisions to the CVA risk framework** with the objective of aligning the CVA risk framework with the revised market risk framework.

Others

- **(2Q)**. The IOSCO published a **consultation report on outsourcing principles** which comprise a set of fundamental precepts and seven principles.
- **(4Q)**. The FSB published the **Global Transition Roadmap (GTR) for LIBOR** which is intended to inform those with exposure to LIBOR benchmarks of some of the steps they should be taking until end-2021.

Executive summary
European publications

The EBA issued a final report on CRM Guidelines for institutions applying the IRB approach with own estimate of LGD. It also published the final methodology, draft templates and template guidance for the 2021 stress tests, as well as final guidance on lending and loan monitoring.

Relevant publications

Capital, liquidity and leverage

- **(2Q)**. The EBA issued a **final report on the Guidelines on CRM for institutions applying the IRB approach with own estimates of Loss Given Defaults (LGDs).**
- **(3Q)**. The ECB published has published a **Guide on assessment methodology (EGAM)** for the internal model method (IMM) for calculating exposure to CCR and the advanced method for own funds requirements for credit valuation adjustment risk (A-CVA).
- **(3Q)**. The EBA published the **consultation on draft Regulatory Technical Standards (RTS) on default probabilities (PDs) and losses given default (LGDs) for default risk model for institutions using the new IMA under the Fundamental Review of the Trading Book (FRTB)**.
- **(4Q)**. The EBA published the **Final methodology, draft templates and template guidance for the 2021 EU-wide stress test**.

Credit Risk

- **(2Q)**. The EBA published the **guidelines on loan origination and monitoring**. Furthermore, it also announced the data of the Spring 2020 EU-wide transparency exercise.

Supervision

- **(1Q)** The EBA published a CP on **draft GL on the subsets of sectoral exposures** to which a systemic risk buffer can be applied with the aim of establishing a common framework.
- **(4Q)**. The EBA published an **update to the reporting framework 3.0 and the ITS on Pillar 3**.

Recovery and Resolution

- **(2Q)**. The SRB published the **MREL Policy under the Banking Package** with aim of the adaptation of MREL requirements to the new framework.
- **(3Q)**. In addition the EBA published public consultations on various elements of the MREL framework which include, **the Consultation paper (CP) on draft RTS methodology to estimate Pillar 2 (P2R) and combined buffer requirements (CBR) for setting MREL requirements, the CP on draft Implementing Technical Standards (ITS) on reporting decisions on MREL, the CP on draft RTS on indirect subscription of MREL instruments within groups**.

COVID-19

- **(1Q)**. The ECB announced **ECB Banking Supervision flexibility measures** related to the use of capital and liquidity buffers, the coverage of Pillar 2 requirements with lower quality capital and the treatment of NPLs. The EBA also issued clarifications on the implementation of the prudential framework.
- **(2Q).** The ECB issued **temporary measures to mitigate impact of possible rating downgrades on collateral availability**, which complements the broader collateral easing package that was announced on April.

Executive summary
European publications

In Europe, the ECB published Guidance on climate-related risks. The EBA has published a consultative document on the management and supervision of ESG risks. In the area of digitalisation, ESMA published a consultative document on Guidelines on outsourcing cloud services and the EC adopted a new Digital Finance package.

Relevant publications

Climate change

- **(4Q).** The EC published the **Delegated Regulation on EU classification system for green investments** with the aim of establishing the technical screening criteria for determining the conditions under which an economic activity qualifies as contributing substantially to climate change mitigation or climate change adaptation.
- **(4Q)**. The ECB published its **Guide on climate-related and environmental risks** which outlines the ECB's understanding of the safe and prudent management of climate-related and environmental risks.
- **(4Q)**. The EBA published the **Discussion Paper on ESG risks management and supervision** which provides a comprehensive proposal on how ESG factors and risks could be included in the regulatory and supervisory framework for credit institutions and investment firms.

Digitalization

- **(1Q)**. The EBA published the **Report on Big Data and Advanced Analytics** with key observations, and presenting the pillars and elements of confidence building.
- **(2Q).** The ESMA published a consultation paper on **Draft Guidelines on outsourcing to cloud service providers** with the aim to help firms to identify, address and monitor the risks that may arise from their cloud outsourcing arrangements.
- **(2Q).** The EIOPA published a **discussion paper on (re)insurance value chain and new business models arising from digitalization**.
- **(3Q).** The EC published the **Capital Markets Recovery Package** with the aim to facilitate the recapitalisation of companies affected by the economic shock of the coronavirus pandemic. This package includes the **Amendments to Securitisation Regulation and CRR** as well as the amendments to MiFID II. The EC has also adopted a new **Digital Finance Package**, including digital finance and retail payments strategies, and legislative proposals on crypto-assets and digital resilience.

Executive summary
Local publications

In Spain, the Government approved Royal Decree 309/2020, for FCIs adapted to the needs of the business but at the same time equivalent in terms of robustness to that established for credit institutions. In USA, the Fed Provisional Final Rule to revise the TLAC Rule is noteworthy.

Relevant publications

Spain

- **(1Q)**. The Spanish Government published the **Royal Decree-Law 8/2020 on urgent extraordinary measures to deal with the economic and social impact of COVID-19**.
- **(1Q)**. Also, the Government developed the legal regime for EFC through the **Royal Decree 309/2020**, adapted to the needs of the business but at the same time equivalent in terms of robustness to that established for credit institutions. In addition, the BoS published **Circular 1/2020 amending provisions relating to the Central Risk Information (CIR)** to improve the consistency of the information collected and clarify the information to be submitted on certain transactions.
- **(1Q)**. In addition, the **CNMV published a temporary ban on constituting or increasing net short positions on listed shares**, in order to reduce volatility and avoid speculative movements.
- **(2Q)**. The Spanish Government approbed **Royal Decree-Law 15/2020** on urgent complementary measures to support the economy and employment and **Royal Decree Law 19/2020** adopting complementary measures in the agricultural, scientific, economic, employment and social security and tax fields to alleviate the effects of COVID-19.
- **(2Q)**. The BoS issued **Circulars 2/2020 and 3/2020 amending Circular 4/2017 to credit institutions on public and confidential financial reporting standards and financial statement formats**. In addition, the Government of Spain has approved the Climate Change and Energy Transition Law Project, which aims to, among others, ensure compliance with the objectives of the Paris Agreement of 2015.

Spain (continuation)

- **(2Q)**. The BoS published the **Economic Bulletin 2/2020: Reference Macroeconomic Scenarios for the Spanish Economy after COVID-19**, which develops a set of scenarios for the Spanish economy that take into account different alternative assumptions about the duration of confinement and the persistence of the disturbance suffered.
- **(3Q)**. The BoS published the **Draft Circular to payment institutions and electronic money institutions, on public and private financial reporting standards and model financial statements** with the aim of establishing new specific regulations on the accounting regime to be prepared by these institutions.
- **(4Q).** The Government of Spain published **Law 7/2020 for the digital transformation of the financial system** which set out several measures that ensure that the financial authorities have adequate instruments to continue to comply with their obligations in the digital context and to facilitate the innovative process of access to financing for the various productive sectors.

USA

- **(1Q)**. The Fed published measures to support the flow of credit to the various markets and entities; a **Provisional Final Rule to revise the TLAC Rule** that facilitates the use of entity buffers to promote credit activity; and a **statement on supervisory activities** establishing supervisory adjustments motivated by the COVID-19.
- **(1Q)**. The Fed, FFIEC, SEC and CSBS coordinated a joint effort to publish a series of **measures to mitigate the economic impact**. In addition, the Fed, FDIC and OCC published an Interim Final Rule for the **Money Market Liquidity Facility (MMLF).** Finally, OCC also published an Interim **Final Rule to amend the Short-Term Investment Fund (STIF)** Rule for domestic banks acting in a fiduciary capacity.

Executive summary
Local publications

In the USA, the Fed, FDIC and OCC published several Final rules such as Final Rule on Regulatory Capital Treatment for Investments in Certain Unsecured Debt Instruments or the final rule strengthening the resilience of large banks.

Relevant publications

USA (continuation)

- **(1Q)**. The Fed, OCC, FDIC, SEC and CFTC published a **Proposed Revision of the Prohibitions and Restrictions** on Proprietary Trading and certain Interests and Relationships with Hedge Funds. In addition, the Fed and FDIC issued **Proposed Guidance on Resolution Plans for certain Foreign Banking Organizations (FBOs)**.
- **(2Q)**. The Fed, OCC, FDIC and Treasury have issued **Temporary Changes to the Community Bank Leverage Ratio** Framework with the aim to support the US economy and allow banking organizations to continue lending to households and businesses.
- **(2Q)**. The Fed, FDIC and OCC published the **Regulatory Capital Rule on Temporary Exclusion of US Treasury Securities and Deposits at Federal Reserve Banks from the Supplementary Leverage Ratio (SLR)** for Depository Institutions with the aim of establishing temporary modifications that will provide flexibility to certain depository institutions to expand their balance sheets in order to provide credit to the real economy.
- **(3Q)**. The Fed, FDIC, OCC, SEC and CFTC published a **Final Rule on revisions to prohibitions and restrictions on proprietary trading and certain interests in, and relationships with, hedge funds** and private equity funds, which is intended to improve and streamline the hedge funds and private equity funds provisions and provide clarity to banking entities so that they can offer financial services.

USA (continuation)

- **(3Q)**. The Fed also published the results for the **Dodd-Frank Act Stress Test 2020** which concluded that in the aggregate, the firms subject to the supervisory stress test would experience substantial losses under the severely adverse scenario but could continue lending to businesses and households. Additionally the Fed conducted a sensitivity analysis to assess the resiliency of large banks.
- **(4Q)**. The Fed, FDIC and OCC published a **Final Rule on Regulatory Capital Treatment for Investments in Certain Unsecured Debt** with the aim of reducing both interconnectedness within the financial system and systemic risks.

Executive summary
Local publications

In UK, the publication by the PRA of the Policy Statement 11/20 on credit risk: PD and LGD estimation and the BoE publications on a series of measures to respond to the economic shock and meet the challenges of COVID-19 stand out.

Relevant publications

UK

- **(1Q)**. The BoE published a series of **Measures to Respond to the Economic Shock** to help local businesses and families cope with the expected economic slowdown, and jointly with HM Treasury launched a Covid **Corporate Financing Facility** (CCFF) to provide support to companies in various sectors to pay wages and suppliers. In addition, the BoE and PRA also **published Supervisory and Prudential Policy Measures to address the challenges of COVID-19**.
- **(1Q)**. The PRA the **Consultation Paper (CP) 2/20 on Pillar 2A: Reconciling capital requirements and macroprudential buffers**, to reduce the variable capital requirements of Pillar 2A by taking into account the additional resilience associated with larger macroprudential buffers in a standard risk environment.
- **(2Q).** The PRA and the BoE published a **statement on resolution measures and COVID-19** aimed at alleviating operational burdens on PRA-regulated firms in response to the COVID-19 outbreak.
- **(2Q).** Furthermore, the FCA published **several temporary guidances for firms which cover personal loans overdraft and credit cards (including retail revolving credit) and coronavirus**, with the aim of protecting consumers by providing them with temporary support in the light of the current exceptional circumstances arising out of coronavirus.
- **(2Q).** The PRA published the **Policy Statement 11/20 on credit risk: PD and LGD estimation** which updates again the SS 11/13 on IRB.

UK (continuación)

- **(4Q)**. The PRA has published the **Policy Statement (PS) 29/20** on CRD V and the **statement on the EU requirement on prudential treatment of software assets**. Furthermore, the PRA has published the **Supervisory Statement (SS) 31/15 on the ICAAP and SREP and PS on the PRA's methodologies for setting Pillar 2 capital**. Finally, the PRA has published the **SS 32/15 on Pillar 2 reporting**.

Regulatory projections

At European Level, the EBA 2021 EU-wide stress test will be launched and CRR II will be applicable. In Spain, the Circular 2/2020 on advertising of investment products and services will enter into force. In the US, the Final Rule on Regulatory Capital Treatment for Investments in Certain Unsecured Debt Instruments will enter into force

Next year

- **(Global) January 2021**: the IASB Phase 2 of the Interest Rate Benchmark Reform, with proposed amendments to IFRS 9, IAS 39, IFRS 7, IFRS 4 and IFRS 16 will apply.
- **(Europe) January 2021**:
  - The EBA GL on the new definition of default will be applicable.
  - The EBA GL on CRM for institutions applying the A-IRB approach will be applicable.
  - The ESMA GL on securitisation repository data completeness and consistency thresholds will apply.
  - Launch of the exercise EBA EU-wide stress test.
- **(Spain) January 2021:** The BoS Circular 5/2020 on public and private financial reporting standards for currency exchange establishments will enter into force.
- **(Spain) February 2021**: The CNMV Circular 2/2020 on advertising of investment products and services will enter into force.
- **(Europe) March 2021**:
  - The EP and the Council Regulation (EU) 2019/2088 on sustainability-related disclosures in the financial services sector will enter into force.
  - The EBA Reactivation of Guidelines on legislative and non-legislative moratoria will apply to this date.
- **(Europe) 2021**: EIOPA's occupational retirement provisions 2019 stress test results will be published.
- **(US) April 2021**: Fed/FDIC/OCC Final Rule on Regulatory Capital Treatment for Investments in Certain Unsecured Debt Instruments will enter into force.
- **(Europe) June 2021**:
  - The CRR II of the EP and the Council will be applicable with certain exceptions.
  - The EP and the Council adaptation of the investment firms prudential framework will be applicable.
  - The EBA Guidelines on loan origination and monitoring will enter into force.
  - The ESMA Guidelines on outsourcing to cloud service providers will enter into force.
  - The EBA new regulatory framework for investment firms will enter into force.
  - The EBA Final draft comprehensive ITS on institutions' Pillar 3 disclosures will apply.
  - The EBA Final draft ITS on supervisory reporting (Framework 3.0) will apply.
  - The EBA Guidelines specifying the conditions for the application of the alternative treatment of institutions' exposures related to tri-party repurchase agreements for large exposures purposes will apply.
  - The ECB´s temporary exclusion of certain exposures (i.e. leverage ratio denominator) to central banks from the total exposure measure in view of the COVID-19 pandemic.
  - The EBA final Report on management and supervision of ESG risk will be published.
- **(Europe) July 2021**:
  - The amendments introduced by the CRR II on the ECB Guide which updates the risk-type-specific chapters of the Guide to the TRIM on internal models will apply.
  - The EIOPA Guidelines on ICT security and governance will apply.
- **(US) July 2021**:
  - FED and FDIC Final Rule on modifications to resolution plan requirements will be applicable for companies subject to category I, II and III standards.
  - Fed/FDIC/OCC Final Rule on NSFR: Liquidity Risk Measurement will apply.
- **(Europe) September 2021**: the EBA's ITS on specific reporting requirements for market risk will apply.
- **(Global) November 2021**: the FSB will update the list of G-SIBs.
- **(Global) December 2021**: the BCBS new assessment methodology for G-SIBs will be applicable.
- **(UK) December 2021**: the PRA will next reassess firms' Systemic Risk Buffer rates.

More than a year

- **(Spain) 2022:** it is expected that the BdE Expectations on risks arising from climate change and environmental impact will apply.
- **(Europe) 2022**: the proposed new framework would be introduced in the 2022 EU-wide stress test.
- **(Europe) January 2022**:
  - The EBA GL on IRB parameters estimation will be applicable.
  - The EBA final RTS on an economic downturn as well as the GL for the estimation of LGD appropriate for an economic downturn will be applicable.
  - The ESAs provisions regarding product disclosure in periodic reports RTS on ESG disclosure standards will apply.
  - The EBA GL on CRM for institutions applying the IRB approach with own estimates of LGDs will apply.
  - The EC Delegated Regulation on EU classification system for green investments will apply.
- **(UK) January 2022**:
  - The PRA will require firms to comply with an end-state MREL.
  - The PRA PS 11/20 on credit risk: PD and LGD estimation will enter into force.
- **(US) July 2022**: the Final Rule of the Fed and the FDIC on modifications to resolution plan requirements for covered companies that are triennial reduced filers will apply.
- **(Europe) July 2022**: It will be applicable the EP and Council Directive (EU) 2019/2162 and Regulation (EU) 2019/2160 on exposures in the form of covered bonds.
- **(Europe) December 2022**: the EBA will issue an impact assessment of MREL on banks' profitability.
- **(Global) January 2023**:
  - The revised SA for credit risk, the revised IRB framework, the revised CVA framework, the revised operational and market risk framework published in Basel III and the standard on the minimum capital requirements for market risk by the BCBS will be implemented. Moreover, the LR framework using the revised exposure definition and the G-SIB buffer will be applicable.
  - Most of the new disclosure requirements of the BCBS Pillar III updated framework will have to be implemented.
  - The BCBS technical amendment on the capital treatment of securitisations of NPLs will enter into force.
  - The amendments to IFRS 17 proposed by the IASB will enter into force.
- **(Europe) January 2024**: SRB's deadline of meeting external and internal MREL, including subordination requirements.
- **(Global) January 2028**: an output floor of 72.5% of RWA in the SA approach will be applicable according to the Basel III reform of the BCBS.

Q1 Relevant publications

Summary of relevant publications of the first quarter


Index 1.56 0.78

Q2 Relevant publications

Summary of relevant publications of the second quarter

Topic	Title	Date	Page
	Financial Stability Board		
GSC	• Consultative Document on Addressing the regulatory, supervisory and oversight challenges raised by "global stablecoin" arrangements	04/05/2020	64
Financial resources	• Guidance on financial resources to support central counterparty (CCP) resolution and on the treatment of CCP equity in resolution	11/05/2020	65
	Basel Committee on Banking Supervision		
COVID-19	• Measures to reflect the impact of COVID-19	20/04/2020	67
RDA&RR	• Progress in adopting the Principles for effective risk data aggregation and risk reporting	11/05/2020	68
	Basel Committee on Banking Supervision / European Banking Authority		
Basel III	• BCBS - Basel III Monitoring Report • EBA Report on Basel III Monitoring • EBA Report on Liquidity Measures • EBA updates 2019 list of Other Systemically Important Institutions (O-SIIs)	20/04/2020	69
	International Organization of Securities Commissions		
Outsourcing	• Consultation Report on outsourcing principles	02/06/2020	700
COVID-19	• Statement on Importance of Disclosure about COVID-19	04/06/2020	73
	International Accounting Standards Board		
IFRS; IASB	• Phase 2 of the Interest Rate Benchmark Reform. Proposed amendments to IFRS 9, IAS 39, IFRS 7, IFRS 4 and IFRS 16 • Snapshot: Interest Rate Benchmark Reform – Phase 2	20/04/2020	75
COVID-19	• Accounting for expected credit losses applying IFRS 9 Financial Instruments in the light of current uncertainty resulting from the covid-19 pandemic • Expousure draft COVID-19 Related Rent Concessions Proposed amendment to IFRS 16	03/04/2020 04/05/2020	76 78
	International Monetary Fund		
Global Financial Safety Net	• Decision to launch a New Short-Term Liquidity Line to Enhance The Adequacy Of The Global Financial Safety Net	04/05/2020	79
	Single Resolution Board		
MREL	• MREL Policy under the Banking Package	01/06/2020	80
	European Commission		
COVID-19	• Coronavirus response: Banking Package to facilitate bank lending- Supporting households and businesses in the EU	11/05/2020	82

Q3 Relevant publications

Summary of relevant publications of the third quarter

Q4 Relevant publications

Summary of relevant publications of the fourth quarter

Topic	Title	Date	Page
	Financial Stability Board		
LIBOR	• Global Transition Roadmap for LIBOR	21/10/2020	210
	Financial Stability Board / Basel Committee on Banking Supervision		
G-SIBs	• 2020 list of G-SIBs	16/11/2020	211
	Basel Committee on Banking Supervision		
NPLs	• Final technical amendment on the capital treatment of securitisations of NPLs	02/12/2020	212
	Basel Committee on Banking Supervision / European Banking Authority		
Basilea III	• Basel III Monitoring Report	11/12/2020	213
	Single Resolution Board		
Work Programme	• 2021-2023 Multi-Annual-Programme including Annual Work Programme 2021	02/12/2020	215
	European Comission		
Cybersecurity	• EU's Cybersecurity Strategy for the Digital Decade	16/12/2020	216
Green Investments	• Delegated Regulation on EU classification system for green investments	02/12/2020	217
Data Governance	• Proposal on Data Governance Act	27/11/2020	218
Work Programme	• 2021 Work Programme 23/10/2020 19		
	European Central Bank		
Environmental risks	• Guide on climate-related and environmental risks	03/12/2020	220
	European Securities and Markets Authority		
Work Programme	• 2021 Work Programme	06/10/2020	222
	European Insurance and Occupational Pensions Authority		
Solvency II	• Opinion on the review of Solvency II	17/12/2020	223
Nat Cat	• DP on methodology on inclusion of climate change in Nat Cat standard formula	04/12/2020	224
Ratios	• CP on the relevant ratios to be mandatorily disclosed by insurers and reinsurers	03/12/2020	225
SCR	• CP on statement on supervisory practices and expectations in case of breach of SCR	01/12/2020	226
ICT	• Guidelines on ICT security and governance	15/10/2020	227
Risk Scenarios	• Opinion on the supervision of the use of climate change risk scenarios in ORSA	08/10/2020	228

31/03/2020
Deferral of Basel III implementation

1. Context

In December 2017, the BCBS issued the finalisation of the Basel III post-crisis reform where a key objective of the revision was to reduce excessive variability of risk-weighted assets (RWAs). The Basel III framework established transitional arrangements to implement the new standards by 1 January 2022 and 1 January 2027 for the output floor. Furthermore, the Pillar 3 disclosure requirements and the minimum capital requirements for market risks were revised in December 2018 and January 2019 respectively, whose implementation deadline was also set by 1 January 2022.

Due to the global situation regarding COVID-19, the BCBS has announced the **deferral of Basel III implementation** to provide additional operational capacity for banks and supervisors to respond to the immediate financial stability priorities on the global banking system.

2. Main points

- The implementation date of the **Basel III standards** has been deferred by one year to 1 January 2023. The accompanying transitional arrangements for the **output floor** has also been extended by one year to 1 January 2028.
- The implementation date of the revised **market risk framework** has been deferred by one year to 1 January 2023.
- The implementation date of the revised **Pillar 3 disclosure requirements** has been deferred by one year to 1 January 2023.

EUROPEAN COMMISSION

21/02/2020

- **European strategy for data**
- **White paper on Artificial Intelligence**
- **B2G Expert Group Report: Towards a European strategy on business-to-government datasharing for the public interest**
- **Commission Report on safety and liability implications of AI, the Internet of Things and Robotics**

1. Context

Since 2014, the Council, the European Parliament (EP) and the European Commission (EC) have approved several regulations to facilitate the development of a data-agile economy such as the Regulation on the free flow of non-personal data, the Cybersecurity Act, the Open Data Directive and the General Data Protection Regulation (GDPR). Furthermore, in 2018, the EC presented for the first time an Artificial Intelligence (AI) strategy, and agreed a coordinated plan with Member States (MS) with the objective of boosting EU's research and industrial capacity.

In this context, the EC has published the **European strategy for data** with the aim of setting up a European data space, a single market for data, to unlock unused data, allowing it to flow freely within the EU and across sectors for the benefit of businesses, researchers and public administrations. The EC has also published the **White paper on AI** with the objective of mobilising resources along the entire value chain and creating the right incentives to accelerate deployment of AI, including by smaller and medium-sized enterprises.

Along with these documents, the EC has published the “B2G Expert Group Report: Towards a European strategy on business-to-government datasharing for the public interest” and the “Commission Report on safety and liability implications of AI, the Internet of Things and Robotics” to support these action plans.

2. Main points

<u>European strategy for data</u>

- **Cross-sectoral governance framework for data access and use**. The EC aims to create the necessary over-arching framework for the data-agile economy, avoiding fragmentation of the internal market through inconsistent actions between sectors and MS.
- **Investments in data and strengthening Europe’s capabilities and infrastructures for hosting, processing and using data, interoperability**. The EC’s objective is to offer an environment that supports data-driven innovation and stimulates demand for products and services that rely on data as an important factor of production. The key actions and regulations in this field will be:
    - Invest in a <u>High Impact project on European data spaces</u>, encompassing data sharing architectures and governance mechanisms (2022).
    - Sign Memoranda of Understanding with MS on <u>cloud federation</u> (Q3 2020).
    - Launch a <u>European cloud services marketplace</u>, integrating the full stack of cloud service offering (Q4 2022).
    - Create an <u>EU self-regulatory cloud rulebook</u> (Q2 2022).
- **Empower individuals, invest in skills and in SMEs**. The EC’s main axes of this strategy are the funding dedicated to skills under the Digital Europe programme that will contribute to narrowing the gap in terms of big data and analytics capacities, while individuals will be further supported in enforcing their rights with regard to the use of the data they generate (e.g. portability right for individuals under the GDPR). The EC also wants to create opportunities for SMEs in the data economy, to have better access to data and to develop new services and applications based on data.
- **Common European data spaces in strategic sectors and domains of public interest**. The EC’s goal is to lead the availability of large pools of data in the sectors and domains of public interest, combined with the technical tools and infrastructures necessary to use and exchange data, as well as appropriate governance mechanisms. The EC will support the establishment of nine Common European data spaces: industrial, Green Deal, mobility, health, financial, energy, agriculture, public administration and skills.

2. Main points (cont.)

White paper on AI

- **Develop an ecosystem of excellence**. The EC's focus is to develop an ecosystem of excellence that can support the development and uptake of AI across the EU economy and public administration (e.g. digital innovation hub per MS, or public-private partnership in AI, data and robotics).
- **Develop an ecosystem of trust**. The EC aims to create a solid European regulatory framework for trustworthy AI. The EC also recommends that certain additional requirements for the development of high risk AI systems be adopted on the following aspects: i) training data; ii) record-keeping on data and algorithms; iii) information to be provided on the use of AI systems; iv) robustness, accuracy, reproducibility and error treatment; v) expert review and validation; and) treatment of restrictions in the case of the use of biometric data for remote identification.

3. Next steps

- The White paper on AI will be open for public consultation until **19 May 2020**.

EUROPEAN COMMISSION

13/03/2020
- **Usability guide TEG proposal for an EU Green Bond standard (GBS)**
- **Taxonomy: Final report of the Technical Expert Group on Sustainable Finance**
- **Updated methodology & Updated Technical Screening Criteria**

1. Context

In March 2018, the European Commission (EC) published its Action Plan on Financing Sustainable Growth which set out a comprehensive strategy to further connect finance with sustainability. In Action 2 of the Action Plan, the EC committed to create standards and labels for green financial products. In June 2018, the EC set up the TEG to assist it in developing the EU taxonomy to determine whether an economic activity is environmentally sustainable; an EU Green Bond Standard (GBS); methodologies for EU climate benchmarks and disclosures for benchmarks; and guidance to improve corporate disclosure of climate-related information.

In this context, the EC has published the **Usability guide TEG proposal for an EU GBS** with the aim to support potential issuers, verifiers and investors of EU Green Bonds. Furthermore, the EC also published the **Taxonomy: Final report of the Technical Expert Group on Sustainable Finance** which contains recommendations relating to the overarching design of the Taxonomy, as well as guidance on how users of the Taxonomy can develop Taxonomy disclosures and a summary of the economic activities covered by the technical screening criteria.

In addition, along with these documents the TEG has also published an **Annex** which explains the methodologies for developing technical screening criteria for climate change mitigation objectives, adaptation objectives and 'do no significant harm' to other environmental objectives in the legislative proposal.

2. Main points

<u>Usability guide TEG proposal for an EU Green Bond standard</u>

- **Green Projects**. The proceeds from EU green bonds should finance "Green Projects", which should comply with these requirements:
  - Contribute substantially to at least <u>one of the six environmental objectives</u> of the EU Taxonomy Regulation (TR), i.e. climate change mitigation or adaptation, sustainable use and protection of water and marine resources, transition to a circular economy, pollution prevention and control and protection and restoration of biodiversity and ecosystems.
  - Not significantly <u>harm any of the these objectives</u>
  - Comply with <u>minimum safeguards</u>
  - Comply with <u>Technical Screening Criteria</u> (TSC)
- **GBS**. The TEG proposes that the EU GBS should be a voluntary standard proposed to issuers that wish to align with best practices in the market, designed to be relevant and accessible to issuers located in and outside the EU. Furthermore, the TEG proposes a "Use-of-Proceeds" approach providing transparency for investors on the green projects that are being financed or refinanced, as well as additional information on the management of proceeds, impact reporting and external reviews. The proposed EU GBS model sets out four core components:
  - <u>Alignment of the use-of-proceeds with the EU Taxonomy</u>. The issuer needs to check the TSC relevant to the specific activity and related NACE code and a procedural approach to do no significant harm (DNSH) and minimum safeguards assessment and verification for EU GBS that may be sufficient to provide confiability to investors.
  - <u>Content of a Green Bond Framework (GBF) to be produced by the issuer</u>. The structure of the GBF Template is: i) strategy and rationale; ii) projects' alignment with EU Taxonomy; iii) projects description; iv) proceeds allocation; and v) reporting and verification.
  - <u>Required allocation and impact reporting</u>. The EU GBS requires two different types of reporting: i) allocation reporting (which shall be published at least annually until full allocation), and ii) impact reporting (which shall be published at least once during the lifetime of the EU Green Bonds).
  - <u>Requirements for external verification by an approved verifier</u>. The EU GBS requires the mandatory verification by a registered verifier of a EU green bond issuance seeking alignment at 2 points in time and on specific elements of the standard: first, the alignment of the Green Projects with the EU Taxonomy within the parameters set out by the EU GBS, and second, after full allocation of proceeds, the actual allocation of these proceeds to green eligible projects.

2. Main points (cont.)

Taxonomy: Final report of the Technical Expert Group on Sustainable Finance

- **Objective**. The EU Taxonomy is a tool to help investors, companies, issuers and project promoters navigate the transition to a low-carbon, resilient and resource-efficient economy. The Taxonomy sets performance thresholds, the so called TSC, for economic activities which make a substantive contribution to one of six environmental objectives, DNSH to the other five and meet minimum safeguards.
- **Overarching design issues**. The sectors that have a large emissions footprint are prioritized in the development of the taxonomy, identifying the covered and non-covered sectors. For each environmental objective, the TR proposed recognises two distinct types of substantial contribution that can be considered Taxonomy-aligned:
    - Economic activities that make a substantial contribution based on their own performance.
    - Economic activities that, by provision of their products or services, enable a substantial contribution to be made in other activities.
- **Climate change mitigation**. To establish transition pathways for heavily emitting sectors for which low-carbon solutions are not available the TEG adopted two principles: ensuring no lock-in of assets inconsistent with the goals of reducing emissions and environmental performance well above the sector average.
- **Taxonomy application**. The taxonomy will be applicable to:
    - Financial market participants offering financial products in the EU
    - Large companies who are already required to provide a non-financial statement
    - The EU and Member States, when setting public measures, standards or labels for green financial products

3. Next steps

- The EC will hold a public consultation for **three months form mid-March 2020** on the EU GBS.

09/01/2020

- **Directiva (UE) 2019/2177 por la que se modifican las Directivas de Solvencia II, MiFID II y AML/CFT IV**

1. Context

In May 2014, the EP and the Council approved the Directive 2014/65/EU on markets in financial instruments (MiFID II) which aims at making financial markets in the EU more robust and transparent, and establishing a new legal framework that enhances investor protection. Furthermore, in October 2014, the European Commission (EC) published a Delegated Regulation (EU) 2015/35 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II). In addition, on 2015, the Directive (EU) 2015/849 on anti-money laundering and countering the financing of terrorism (AML/CFT IV) was published.

In this context, the EP and Council have published **Directive (EU) 2019/2177 amending the Solvency II Directive, MiFID II and AML/CFT IV**, with the aim of adapting the rules to regulatory changes and new challenges in the financial system. The amendments to these three directives take the shape of an improvement in the quality of data provision services, a strengthening of cooperation between supervisory authorities and new powers for the EBA, respectively.

2. Main points

- **Amendments to MiFID II**. This Directive removes the provisions regarding the operational requirements of data providers and the responsibilities of the competent authorities with respect to these MiFID II providers. This amendment aligns the provisions contained in MiFIR with the objective of ensuring the quality of trading data and the processing and supply of such data, including the cross-border processing and supply of data, as well as the role of the European Securities and Markets Authority (ESMA) in market surveillance, among others.
- **Amendments to Solvency II**. This Directive improves the convergent application of Union law in cases of cross-border insurance activity, and the exchange of information and cooperation between supervisory authorities and the European Insurance and Pension Authority (EIOPA) is strengthened. To this end, it is foreseen to set up collaborative platforms to facilitate the exchange of information and notifications between the relevant supervisory authorities. In addition, the calculation of the volatility adjustment on interest rates is modified; the minimum value to be reached by the spread for the risk-adjusted country is reduced from 100 to 85 basis points.
- **Amendments to AML/CFT IV**. This Directive provides the European Banking Authority (EBA) with a new role in preventing the use of the financial system for money laundering or terrorist financing. The former functions attributed to the European Supervisory Authorities (ESAs) are now under the responsibility of the EBA, including the development of draft technical standards, guidelines or opinions.

3. Next steps

- Member States shall transpose, in general terms, by **30 June 2021** this Directive, which shall apply:Los Estados miembros deberán trasponer, con carácter general, antes del **30 de junio de 2021** esta Directiva, que tendrá las siguientes fechas de aplicación:
    - Amendments related to Solvency II and AML/CFT IV shall apply by **30 June 2021**.
    - Amendments related to MiFID II shall apply by **1 January 2022**.
- Furthermore, Member States shall transpose the measures regarding volatility adjustment to the relevant risk-free interest rate term structure in Solvency II by **30 June 2020**, and they shall apply by **1 July 2020**.

13/03/2020

- **EBA - Statement on actions to mitigate the impact of COVID-19 on the EU banking sector**
- **ECB - Banking Supervision provides temporary capital and operational relief in reaction to coronavirus**

1. Context

The outbreak of COVID-19 (Coronavirus) and its global spread since February has created significant immediate challenges to society and risks for the economic outlook. Although the long term magnitude of the economic shock cannot yet be quantified, it will likely dampen economic activity. Since the financial crisis, EU banks have implemented measures to ensure business continuity and adequate service to their customers, but they are facing operational challenges, hence the need to focus on their core operations and critical functions.

In this context, the EBA, along with national competent authorities (NCAs) and the ECB, is coordinating a joint effort to alleviate the immediate operational burden for banks at this juncture. The EBA recommends NCAs to make full use of the flexibility embedded in the regulatory framework to support the banking sector.

2. Main points

- **EBA's measures**. In order to address any operational challenges banks may face, the following measures are going to be carried out:
    - The EBA postpones the EU-wide stress test exercise to 2021.
    - The EBA will carry out an additional Eu-wide transparency exercise in 2020 to provide updated information on banks' exposures and asset quality to market participants.
    - The EBA recommends CAs to i) plan supervisory activities, including on-site inspections, and possibly postpone those deemed non-essential; and ii) to give banks some leeway in the remittance dates for some areas of supervisory reporting.
- **ECB's measures**. The ECB has announced a number of measures to ensure that its directly supervised banks can continue to fulfil their role in funding the real economy as the economic effects of the coronavirus become apparent.
    - The ECB allow banks to operate temporarily below the level of capital defined by the Pillar 2 Guidance (P2G), the capital conservation buffer (CCB) and the liquidity coverage ratio (LCR).
    - The ECB recommends an appropriate relaxation of the countercyclical capital buffer (CCyB) by the national macroprudential authorities.
    - The ECB allows to partially use capital instruments that do not qualify as Common Equity Tier 1 (CET1) capital (e.g. Additional Tier 1 or Tier 2 instruments) to meet Pillar 2 Requirements (P2R).
    - The ECB is additionally discussing with banks individual measures, such as adjusting timetables, processes and deadlines, e.g. rescheduling on-site inspections and extending deadlines for the implementation of remediation actions stemming from recent on-site inspections and internal model investigations, while ensuring the overall prudential soundness of the supervised banks.

EUROPEAN CENTRAL BANK
EUROSYSTEM

24/03/2020
ECB further flexibility to banks in reaction to coronavirus

1. Context

Since the beginning of March, various agencies at both the local and supranational levels have begun to issue measures to mitigate the possible impact that the COVID-19 could have on the economy. In Europe, the ECB has launched a new temporary asset purchase programme of private and public sector securities called the Pandemic Emergency Purchase Programme (PEPP) of €750 billion and it allow banks to temporarily operate below P2G, the CCB and the LCR requirement. Furthermore, the European Banking Authority (EBA) has decided to postpone the EU-wide stress test exercise to 2021 and it will carry out an additional EU-wide transparency exercise in 2020.

In this context, the ECB has published **new ECB Banking Supervision flexibility measures for banks in reaction to COVID-19** in order to ensure that its directly supervised banks can continue to fulfil their role to fund households and corporations amid the COVID-19 related economic shock to the global economy.

2. Main points

- **Temporary additional transparency obligations**. The ECB has introduced supervisory flexibility regarding the treatment of non-performing loans (NPLs), in particular to allow banks to fully benefit from guarantees and moratoriums put in place by public authorities to tackle the current distress. Specially, the ECB:
    - Will exercise flexibility regarding the classification of debtors as "unlikely to pay" (UTP) when banks call on public guarantees granted in the context of coronavirus. The supervisor will also exercise certain flexibilities regarding loans under Covid-19 related public moratoriums.
    - Loans which become non-performing and are under public guarantees will benefit from preferential prudential treatment in terms of supervisory expectations about loss provisioning.
    - Will discuss with banks the implementation of NPL reduction strategies, taking into account the extraordinary nature of current market conditions.
- **Recommendations on IFRS 9**. The ECB recommends banks to:
    Avoid procyclical assumptions in their models to determine provisions.
    - Those who have not done this so far opt for the IFRS 9 transitional rules.

3. Next steps

- The ECB will continue to closely monitor the developments and implications of this crisis for the banking sector and may **reassess their measures if it is needed**.

15/01/2020
Report on Big Data and Advanced Analytics

1. Context

In March 2018, the European Supervisory Authorities (ESAs) issued a Joint Committee Final Report on Big Data and the EBA published its Roadmap on FinTech. In both documents the ESAs tackled the issues about data-driven approach emerging across the banking sector, which are affecting banks' business strategies, risks, technology and operations. Furthermore, through the use of Big Data and Advanced Analytics (BD&AA) techniques, institutions are exploring more efficient ways to save costs and ensure regulatory compliance, as well as for the calculation of regulatory capital requirements.

In this context, the EBA has published the **Report on Big Data and Advanced Analytics**, with the aim of sharing knowledge among stakeholders on the current use of BD&AA by providing useful background on this area, along with key observations, and presenting the key pillars and elements of trust that could accompany their use. This report focuses on BD&AA techniques and tools, such as machine learning (ML), that go beyond traditional business intelligence to gain deeper insights, make predictions or generate recommendations using various types of data from various sources.

2. Main points

Key pillars. This report identifies four key pillars for the development, implementation and adoption of BD&AA, which interact with each other and are thus not mutually exclusive:

- Data management enables the control and security of data for enterprise purposes taking into account data types and data sources, data protection and data quality. This could lead to improved decision-making, operational efficiency, understanding of data and regulatory compliance.
- Technological infrastructure entails processing, data platforms and infrastructure that provide the necessary support to process and run BD&AA.
- Adequate organisation and governance, through appropriate internal governance structures and organisational measures, along with the development of sufficient skills and knowledge, support the responsible use of BD&AA across institutions and ensure robust oversight of their use.
- Analytics methodology to facilitate the development, implementation and adoption of advanced analytics solutions with an specific lifecycle (data sources, collection, preparation, analytics and operations).

Elements of trust in BD&AA. This report shows that the roll-out of BD&AA specifically affects issues around trustworthiness and notes a number of fundamental trust elements that need to be properly and sufficiently addressed and which cut across the four key pillars:

- Ethics. The development, deployment and use of any Artificial Intelligence (AI) solution should adhere to some fundamental ethical principles.
- Explainability and interpretability. It is a key figure in the building of trustworthy models the explainability and interpretability, which should be transparent, correctly understood and with clear justifications.
- Fairness and avoidance of bias. Fairness requires that the model ensure the protection of groups against discrimination, and in order to ensure it, the model should be free from bias.
- Traceability and auditability. The use of traceable solutions assists in tracking all the steps, criteria and choices throughout the process, which enables the repetition of the processes resulting in the decisions made by the model and helps to ensure the auditability of the system.
- Data protection and quality. Data should be adequately protected with a trustworthy BD&AA system and its quality needs to be taken into account throughout the BD&AA lifecycle.
- Security. It is important to maintain a technical watch on the latest security attacks and related defence techniques and ensure that governance, oversight and the technical infrastructure are in place for effective ICT risk management.
- Consumer protection. A trustworthy BD&AA system should respect consumers' rights and protect their interests.

2. Main points (cont.)

- **Key observations, risks and opportunities**:
  - Key observations on institutions:
    - Different stages of BD&AA development.
    - More use of internal data, rather than external data.
    - Different implementation on the use of advanced analytics on organization.
    - Rely on technology companies for the provision of both infrastructure and cloud services.
  - Key opportunities:
    - Processing personal data for the leisure and retail sectors.
    - Improving customer satisfaction and insights.
    - Interpretable models.
  - Key risks and proposed guidance:
    - With regards to implementation, it should not be deterministic and should take into account human review (human-in-the-loop).
    - In relation to model governance, it should be adequately justified and documented. Furthermore, explainability and interpretability are key to ensure the traceability and auditability of the model and it allow its review consistent with the ethical standards of the institution. The effort in explainability and interpretability should be based on a risk-based approach.
    - As a consequence of the dependence on open source tools, as well as a high use of tools and systems developed by third parties, both their potential risks and the liability, which will always remain with the entity, must be assessed.
    - Finally, the importance of data quality, protection and security is underlined, both for regulatory purposes and to ensure the adequacy of the model.

3. Next steps

- The EBA considers that the existing regulatory framework is deemed sufficient at this stage in the areas of ICT, security and governance. The next steps could focus in particular on **data management and ethical aspects**.

24/01/2020
Discussion Paper on the future changes to the EU-wide stress test

1. Context

Since the global financial crisis, the stress test has become a widely used tool for supervisors to assess the resilience of banks and of the banking sector through its solvency. The EBA conducted its first EU-wide stress test in 2011 and most of the features of the EU-wide stress test have remained unchanged since its establishment. The EBA has organized numerous workshops and other formal and informal interactions with stakeholders in order to improve the stress test methodology and processes, but there has never been a structured discussion on the post-crisis long-term strategy for the EU-wide stress test and on possible fundamental changes to the framework.

In this context, the EBA has published a **Discussion Paper on the future changes to the EU-wide stress test** with the objective to contribute to the development of a framework that optimizes its usefulness to supervisors, banks and policymakers, as well as its relevance to market participants. In particular, this discussion paper covers an assessment of the current EU-wide stress test framework, a possible new framework and the interaction of that new framework with the scenario design and other risks.

2. Main points

- **Assessment of the current framework**. The current framework has contributed to improve the EU banking sector's resilience after the financial crisis through different features such as the bottom-up approach, the simultaneity of the process across a large number of banks which provides consistent and comparable outcomes, and the increase of transparency by disclosing granular information on a bank by bank basis. Despite having some advantages there are areas where the current framework could be improved and more fundamental changes might be needed:
    - Lack of clarity and prioritization of the EU-wide stress test (e.g microprudential purpose of having the stress test results feeding each bank's SREP concomitantly, versus macroprudential objective of assessing systemic risks).
    - Limited integration of the results in the regular supervisory process, especially in comparison with other international frameworks such as the ones in UK or USA.
    - Methodological constraints for some risks.
    - Ownership of results.
    - Resource-intensive nature of the exercise for all parts involved.
- **Proposed new framework**. The proposed framework determines a clear objective, the features and the communication of the stress test results and disclosure.
    - Objective. This new framework confirms that the EU-wide stress test is primarily a microprudential exercise whose main objectives are the assessment of banks' capital adequacy and the identification of risks. For supervisors, the exercise is a concrete support for the SREP and for the assessment of capital planning. For banks, it should complement their internal capital adequacy assessment process (ICAAP) and contribute to improving their internal risk management practices.
    - Features of the framework. This new framework is based on two legs: the supervisory leg and the bank leg. The supervisory leg would be a basis for supervisory decisions, directly linked to the Pillar 2 Guidelines (P2G) setting, and a constrained approach. The bank leg would allow more flexibility and would focus on providing disclosure and fostering market discipline.
        - The **supervisory leg** would be based on a constrained bottom-up similar to the current framework, whereby banks' projections are challenged and quality is assured by supervisors using various challenger models and benchmarking tools. The publication of the supervisory leg would be limited to a basic set of data points focused on capital depletion and its main drivers.
        - The **bank leg** would be obtained by using a flexible bottom-up approach. The results would not be quality assured by the supervisor, giving full ownership of the results to banks. Banks would be allowed to decide on whether to apply the constraints prescribed in this methodology or not.
    - Communication of stress test results and disclosure. Two different stress test results would be obtained, reflecting the supervisory leg and the bank leg:
        - **Supervisory leg**. Results disclosed regarding bank by bank and on aggregate data, limited to the capital ratios relevant to capital distribution and key drivers for each scenario.
        - **Bank leg**. Results disclosed regarding bank by bank, granular data. These data would be based on common disclosure templates similar to the EBA transparency templates of the 2020 EU-wide stress test.

2. Main points (cont.)

- **Proposed changes to the scenarios**. The current framework includes a baseline and an adverse macroeconomic scenario. To make the framework more useful for identifying risks and for exploring a wider number of vulnerabilities, this discussion paper looks at the possibilities of introducing:
    - Multiple scenarios. Testing banks against a number of scenarios with different severities and various narrative paths would be ideal. However, it has three main challenges: i) difficulties in communicating results; ii) producing projections of two scenarios would increase the costs of the exercise; and iii) having two scenarios with a plausible combination of relevant risks would still leave some banks with very little effect in their projections and therefore would not be particularly relevant to understanding their vulnerabilities.
    - Sensitivity analyses. A comprehensive macroeconomic scenario, which, although it might vary in its narrative over time, would include additional sensitivity analyses; and could provide valuable insight by looking at the risks that unfolded in some of the historical episodes or by taking a more forward-looking view and assessing bank's sensitivities to, for instance, climate change, business model disruptions or negative rates.
    - Exploratory scenarios. Some features of the new framework could also be used for introducing exploratory scenarios, which would focus on potential risks with very short realisations (e.g. liquidity risks) or on risks coming from longer term changes in the business environment or in technology, or even risks from structural changes.

3. Next steps

- Comments to this consultation may be submitted by **30 April 2020**.
- The proposed framework would be introduced in the **2022 EU-wide stress test** at the earliest and the methodology for this exercise would have to be approved during the **4Q2021**.

05/02/2020

- **Report on the results from the 2019 market risk benchmarking exercise**
- **Report on the results from the 2019 low-default and high-default portfolios exercise**

1. Context

Under the CRD IV, competent authorities (CAs) shall carry out supervisory benchmarking studies of internal approaches for calculating own funds requirements. Moreover, the EBA is mandated to produce a report to assist the CAs in the assessment of the quality of the internal approaches.

In this regard, the EBA has published two reports on the consistency of RWAs, a **Report on the results from the 2019 market risk benchmarking exercise** as well as a **Report on the results from the 2019 low-default and high-default portfolios (HDPs and LDPs) credit risk benchmarking**. In particular, the objective of the market risk report is to assess the level of variability observed in risk-weighted assets (RWAs) for market risk produced by banks' internal models whereas the HDPs and LDPs report assesses not only the overall level of variability in RWAs but also examine and highlight the different drivers of the dispersion observed.

2. Main points

<u>Report on the results from the 2019 market risk benchmarking exercise</u>

- **Sample**. <u>50 banks</u> from 13 jurisdictions that submitted data for <u>59 market portfolios</u> in all asset classes (e.g. equity, interest rates) and <u>4 correlation trading portfolios</u>.
- **Main findings**.
  - <u>Reduction in the dispersion</u> in the initial market valuation (<u>IMV</u>) due to the simplification applied with the new exercise: instruments in this exercise consist of more plain vanilla instruments than in the previous exercises.
  - <u>Interest rates</u> portfolios exhibit a <u>lower level of dispersion</u> than other asset classes due to the use of more consistent practices and assumptions that are more homogeneous across the banks when modelling equity and interest rate risk.
  - Across all asset classes, the overall <u>variability for value at risk (VaR) is lower</u> than that observed for stressed VaR (21% and 30%, respectively). More complex measures such as incremental risk charge (<u>IRC</u>) and all price risk (<u>APR</u>) show a much higher level of dispersion (54% and 37%, respectively).
  - The dispersion of <u>empirical estimates of expected shortfall</u> (EES) at a 97,5% confidence level across risk factors is <u>similar</u> than that found for <u>VaR and P&L VaR</u>.
- **Dispersion in capital outcome**. The <u>average variability</u> across the sample, measured by the inter-quantile dispersion statistic (IQD) coefficient, is around 23% (considered significant by the EBA), especially for the most complex portfolios in the credit spread asset class.
- **CAs' assessments based on supervisory benchmarks**. Overall, CAs planned some actions for 10 banks (e.g. reviewing the banks' internal VaR and IRC models; a supervisory extra charge; stringent conditions on any extension of the internal model approach, or further internal model investigation at peer level).

2. Main points (cont.)

Report on the results from the 2019 low-default and high-default portfolios exercise

- **Sample**. 111 banks that submitted data for both LDPs (i.e. exposures to large corporates, sovereigns and institutions) and HDPs (i.e. residential mortgages, small and medium-sized enterprise (SME) retail, SME corporate and corporate-other portfolios). This report analyses the variability of both HPDs and LPDs.
- **Variability of the HPDs**:
  - In the 2019 supervisory benchmarking (SVB) exercise, the HDPs consist of four broad types of exposures: residential mortgages, SME retail, SME corporate and corporate-other portfolios. For these exposures, the average default rates are collected in order to attempt to compare the variability of IRB (internal ratings-based) estimates with the variability of empirical level of risk.
  - The IRB approach does not lead per se to higher variability in the capital requirements than the variability already embedded in the standardised approach (SA).
  - For both the IRB approach and the SA, a top-down analysis highlighted that the default mix (share of defaulted exposures) and the portfolio mix (the share of regulatory (sub) exposure classes) explain more than 70% of the observed variability.
  - Within a single exposure class, the variability under the IRB approach follows in a conservative manner the empirical variability of risk, while the variability of RWAs in the SA is less linked to the empirical risk variability.
- **Variability of the LDPs**:
  - In the 2019 SVB exercise, the LDPs consist of three broad type of exposures: large corporates, institutions, and central governments and central banks.
  - The top-down analysis can be performed for only the IRB approach, but a common counterparty analysis is possible thanks to a dedicated template, which makes it possible to quantify the non-risk-based variability both in absolute terms and in relative terms. The following observations affirm the general reliability of the IRB approach in the assessment of risk:
    - Similarly to HDP, **results are stable over the years** if based on a **common sample**, with around 50% of variability explained by the default and portfolio mix.
    - In absolute terms, the **non-risk-based variability of the probability of default** (PD) estimates on single counterparties has a limited impact on the variability of risk weight (RW), with interquartile ranges on the common sample of obligors at 8% for large corporates and 4% for sovereigns and institutions.
    - In relative terms, a **statistical analysis** indicates that institutions **rank obligors consistently**.
- **Main findings from CAs' assessments based on supervisory benchmarks**. Supervisors generally deem the institutions' level of RWAs adequate, although the adequacy of RWA levels cannot be assessed from the SVB results only. Deficiencies spotted by supervisors are spread evenly between LDPs and HDPs, and rather relate to the calibration of risk parameters. The number of unjustified negative deviations from the benchmarks is decreasing over time, as is the proportion of previously unidentified negative deviations. This shows that CAs are more and more picking up on more and more issues and gaining in efficiency.

07/02/2020

Consultation Paper (CP) on Draft Guidelines (GL) on customer due diligence (CDD) and the considering factors when assessing the money laundering (ML) and terrorist financing (TF) risk associated with individual business relationships and occasional transactions

1. Context

In June 2015, the Directive (EU) 2015/849 on Anti-Money Laundering and Countering Financing of Terrorism (AML/CFT) entered into force, requiring the ESAs to issue GL on this issue. In this sense, the ESAs published the Final GL on the risk factors that financial institutions should consider when assessing the ML/TF risk associated with a business relationship or occasional transaction and setting out how financial institutions can adjust their CDD measures as a result of that risk assessment.

In this context, the EBA has published a **CP on Draft GL on CDD and the considering factors when assessing AML/CFT risk associated with individual business relationships and occasional transactions** with the objective to promote the development of a common understanding of what the risk-based approach to AML/CFT entails and how it should be applied. These publication updates the 2017 ESA's GL on ML/TF risk assessments, CDD measures, TF risk factors and new guidance on emerging risks. In particular, this GL is divided into two parts: General GL (e.g. risk assessments, assessing ML/TF risk or record-keeping) and Sector specific GL (e.g. correspondent banks, retail banks or electronic money issuers).

2. Main points

- **General GL**. This part of the GL applies to all firms and covers the following topics:
    - Risk assessments. Firms should ensure that they have a thorough understanding of the ML/TF risks to which they are exposed.
    - Identifying ML/TF risk factors. Firms should identify risk factors relating to their customers, countries or geographical areas, products and services, and delivery channels in the wayset out in these Guidelines.
    - Assessing ML/TF risk. Firms should use the risk factors they have identified to assess the overall level of ML/TF risk.
    - CDD measures to be applied by all firms. A firm's business-wide and individual risk assessments should help it identify where it should focus its ML/FT risk management efforts, both at customer take-on and for the duration of the business relationship.
    - Record-keeping. Firms must keep records at least of CDD information, their risk assessments and transactions.
    - Training. Firms must make their staff aware of the provisions they have put in place to comply with their AML/CFT obligations.
    - Reviewing effectiveness. Firms should regularly assess the effectiveness of their approach to AML/CFT and determine the frequency and intensity of such assessments on a risk-sensitive basis.
- **Sector specific GL**. This part of the GL is sector specific and complements the general GL. It sets out the risk factors that are of particular importance in certain sectors and provides guidance on the risk-sensitive application of CDD measures by firms in those sectors. This title covers the following:
    - The sectoral GL for correspondent banks, retail banks, electronic money issuers, money remitters, trade finance providers, investment firms, providers of investment funds, firms providing activities of currency exchange offices, and firms that offer corporate finance services, establishes that these institutions should consider a set of risk factors and measures established in this GL, alongside with the General GL in order to avoid the occurrence of ML/TF activities.
    - The sectoral GL for wealth management sets out that firms in this sector should consider a set of risk factors and measures established in this GL, alongside with the General GL in order to avoid the occurrence of ML activities.
    - The sectoral GL for life insurance undertakings and regulated crowdfunding platforms set out that firms in these sector should consider a set of risk factors and measures established in this GL, alongside with the General GL in order to avoid the occurrence of TF activities.
    - The sectoral GL for payment initiation service providers (PISPs) and account information service providers (AISPs) sets out that PISPs and AISPs when offering payment initiation services or account information services should take into account, alongside with the General GL, the provision set out in this GL.

3. Next steps

- Comments to this consultation may be submitted by **5 May 2020**.

14/02/2020

Consultation Paper (CP) on Draft Guidelines (GL) on the appropriate subsets of sectoral exposures to which competent or designated authorities may apply a systemic risk buffer

1. Context

In 2013, CRD IV introduced macroprudential tools to strengthen the resilience of the banking sector against future financial crises. One of this tools was the systemic risk buffer (SyRB), which could be applied to both all or a subset of banks in order to prevent and mitigate structural systemic risks of a long-term, non-cyclical nature inherent in the balance sheet of European banks. Furthermore, in 2019 the European Parliament and the Council adopted the Reform Package of the Banking System to reinforce banks' ability to withstand potential shocks.

In this context, the EBA has published a **CP on draft GL on the appropriate subsets of sectoral exposures to which competent or designated authorities may apply a systemic risk buffer** with the objective of setting a common framework to harmonise the design of the subsets of sectoral exposures to which a SyRB may be applied, thus facilitating a common approach throughout the EU.

2. Main points

- **Sectoral exposures**. Competent authorities (CAs) should identify a subset or subsets of sectoral exposures by combining elements from three dimensions (debtor or counterparty sector, type of exposure and type of collateral) and, where appropriate, sub-dimensions of exposures (economic activity, risk profile and geography, respectively).
- **Systemic relevance**. These GLs establish that the CAs should make a quantitative and qualitative assessment of the systemic relevance of the subset of sectoral exposures taking into account the following criteria:
    - Whether the size of the targeted subset of sectoral exposures can give rise to a serious risk to the financial system and the real economy in a specific Member State.
    - Whether the credit, market and liquidity risk of the targeted subset of exposures is correlated with the magnitude of losses stemming from this subset.
    - Whether other subsets of exposures or financial market actors depend directly and indirectly on the targeted subset of sectoral exposures (interconnection).
- **Interactions with other macroprudential measures and reciprocity**. When NAs decide to identify a subset of sectoral exposures they should ensure the right balance between addressing the systemic risk stemming from the identified subset and the unintended consequences when applying a sectoral SyRB to this subset.

3. Next steps

- Comments to this consultation may be submitted by **12 May 2020**.

19/02/2020
Quantitative MREL Report

1. Context

In 2014, the Bank Recovery and Resolution Directive (BRRD) introduced the concept of minimum requirement for own funds and eligible liabilities (MREL) to ensure that European banks have financial resources in sufficient quantity and quality to cover losses upon failure and restore the viability of the going-concern parts of the institution. Furthermore, in June 2019, the EP and the Council published BRRD II which mandates the EBA to issue a report on MREL annualy, in order to update the European bank's situation.

In this context, the EBA has published its first **Quantitative MREL Report** with the objective of providing information on the increased resilience of the European banking system through improved loss-absorbing capacity and in particular: i) to provide an update on the progress of authorities in setting resolution strategies and MREL across the EU; ii) to report on the levels at which the requirements are set; and iii) to monitor the build-up of resources against these requirements.

2. Main points

- **Scope**. This reports covers 222 resolution groups and stand-alone resolution entities or groups from 24 Member States to which decisions have been communicated setting MREL higher than their current minimum capital requirement in order to facilitate a resolution strategy. This represents 80% of EU domestic assets covered by a bail-in strategy and 5% by a transfer strategy.
- **Main findings**:
    - MREL requirements in the EU range between 26.5% of risk-weighted assets (RWAs) for the G-SIIs and 19% of RWAs for the banks with total assets below € 1 bn that are neither G-SIIs nor O-SIIs.
    - Subordination levels vary significantly, from 100% of MREL to just the level of own funds requirements, depending on the resolution authority's policy and risk appetite towards no creditor worse off (NCWO) risk.
    - Shortfalls. 117 resolution groups show an MREL shortfall. For 65 of them MREL requires not to issue completely new types of debt instrument but, at least in part, to roll over existing debt. Shortfalls vary depending on the **type** and **size** of the bank and its resolution group, while the other marketable securities (OMS) tends to benefit larger banks and to dry out as institutions decrease in size.
- **Recommendations**. The EBA highlights that MREL has a greater impact on some banks than on others, depending on their existing funding profiles. The EBA recommends European resolution groups to take advantage of the current positive market conditions to issue and build up resources.

3. Next steps

- The EBA will issue an impact assessment of MREL on banks' profitability by **December 2022**.

31/03/2020

- **Clarifications to banks and consumers on the application of the prudential framework in light of COVID-19 measures**
- **Guidance on accounting implications of COVID-19**

1. Context

Since the beginning of March, various agencies at both the local and supranational levels have begun to issue measures to mitigate the possible impact that the COVID-19 could have on the economy. In Europe, the European Central Bank (ECB) has launched a new temporary asset purchase programme of private and public sector securities called the Pandemic Emergency Purchase Programme (PEPP) of €750 billion and it allow banks to temporarily operate below P2G, the CCB and the LCR requirement. Furthermore, the EBA has decided to postpone the EU-wide stress test exercise to 2021 and it will carry out an additional EU-wide transparency exercise in 2020. In addition, the ECB has introduced supervisory flexibility regarding the treatment of non-performing loans (NPLs), recommended banks to avoid procyclical assumptions in their models to determine provisions on IFRS 9 and postpone some inspections.

In this context, the EBA has published **clarifications to banks and consumers on the application of the prudential framework in light of COVID-19 measures** in order to ensure consistency and comparability in risk metrics across the whole EU banking sector, which are crucial to monitor the effects of the current crisis. Furthermore, the ESMA has published a **Guidance on accounting implications of COVID-19** in order to provide guidance to issuers and auditors on the application of IFRS 9, specifically as regards the calculation of expected credit losses (ECL) and related disclosure requirements.

2. Main points

EBA - Clarifications to banks and consumers on the application of the prudential framework in light of COVID-19 measures

- **Prudential identification of default**. Defaults do not have to happen until 90 days past due on material credit obligation. The EBA guidelines on the application of the definition of default already explicitly account for the possibility that public moratoria may extend this period. Public and private moratoria should be treated similarly to the extent they have similar purpose and characteristics. In case the loans are renegotiated but the obligor remains likely to meet its obligations there is no need to classify the exposure as defaulted.
- **Classification of forbearance**. The EBA notes that the offering and acceptance of terms set out in general moratoria would not necessarily lead to a reclassification of any loan under the definition of forbearance. It requires the individual assessment of the borrower's financial difficulties and granting measures tailored to this financial situation of the borrower.
- **Considerations on IFRS9**. The EBA considers that the application of public or private moratoria should not be considered by themselves as an automatic trigger to conclude that a significant increase in credit risk has occurred. Institutions should consider the current exceptional circumstances when determining which information can be considered reasonable and supportable information as foreseen under IFRS9, also taking into account the expected nature of the shock (i.e. whether it is expected to be temporary or not) and the scarcity of available and reliable information. Institutions should carefully assess the extent to which, amongst other facts, the high-degree of uncertainty and any sudden changes in the short-term economic outlook are expected to result in impacts over the expected life of the financial instrument. By doing this, it is expected that institutions will assess individually the situation of each debtor and distinguish between obligors for which the credit standing would not be significantly affected by the current situation in the long term, from those that would be unlikely to restore their credit worthiness. In any case, in determining the impact on banks' income statements stemming from the recognition of the expected credit losses (ECL) the mitigation provided by the existence of collateral or public guarantees would need to be considered. Competent authorities should also duly consider the exceptional circumstances when authorizing institutions to opt for the application of IFRS 9 transitional arrangements envisaged in the CRR.
- **Postponed EBA activities**. The EBA has decided to:
  - To extend by two months: i) the deadlines of ongoing public consultations; ii) the remittance date for funding plans data; and, iii) in coordination with the BCBS, to extend the remittance date for the QIS based on December 2019 data.
  - To postpone all public hearings already scheduled to a later date and run them remotely via teleconference or similar means.

2. Main points (cont.)

ESMA - Guidance on accounting implications of COVID-19

- **Accounting implications**. The ESMA considers that in the absence of specific guidance in IFRS 9, issuers should develop their accounting policies in accordance with IAS 8 and IFRS 9 principles.
- **Assessment of significant increase in credit risk (SICR)**. Due to the economic volatility, the ESMA considers that:
    - When the COVID-19 support programs impact the lifetime risk of default on a financial instrument, they should be considered in the assessment of the SICR of it.
    - Issuers may use past due information to determine whether there have been significant increases in credit risk since initial recognition.
    - The presumption that payment defaults of more than 30 days provide evidence of a significant increase in credit risk can be rebutted.
    - Possibility to perform the assessment on a collective basis rather than at instrument level on the identification on the COVID-19 effects.
    - Forbearance measures should be analysed taking into account all the facts and circumstances.
- **ECL estimation**. ESMA considers that, when making forecasts, issuers should consider the nature of the COVID-19 economic shock and the impact that the economic support and relief measures will have on the credit risk over the expected life of the instruments.
- **Public guarantees on issuers' exposures**. ESMA is of the view that the assessment of whether the public guarantee can be considered an integral part of the contractual terms or not may involve judgement and it highlights that such judgements should be clearly disclosed in their financial statements.
- **Transparency**. ESMA considers that issuers should provide any information to enable users of financial statements to understand the overall impact of COVID-19 on the financial position and performance of the issuer.

23/01/2020
Consultation Paper (CP) on Guidelines (GL) on securitisation repository data completeness and consistency thresholds

1. Context

On November 2018, the ESMA published and submitted a Final Report on securitisation repositories technical standards, which includes a set of RTS on these procedures. Furthermore, the European Commision (EC) reviewed this RTS that led to an obligation to ensure that the data submission in respect of the “No Data Options” should be sufficiently representative of the underlying exposures in the securitization.

In this context, the ESMA has published the **CP on Guidelines on securitisation repository data completeness and consistency thresholds**, with the objective to help market participants and securitisation repositories to understand ESMA’s expected maximum use of No Data options contained within a securitisation data submission. This GL are designed to ensure a consistent application of the requirement to be “sufficiently representative”.

2. Main points

- **Thresholds**. This CP sets out an initial calibration of thresholds to be applied by repositories when verifying the completeness and consistency of disclosure templates submitted to them by reporting entities. The tolerance thresholds are complementary and cover the following situations:
    - First threshold: covers the situation where a reporting entity is unable to provide information for a limited number of underlying exposures for several fields.
    - Second threshold: covers the situation where the reporting entity is unable to provide information for many or all underlying exposures for a few fields.
- **Calibration depending on threshold**. This CP proposes several calibrations for these two situations, using a combination of guiding principles and actual data on the percentage use of ‘No Data Options’ in each field across similar securitisation data submissions since 2013.

3. Next steps

- Comments to this CP shall be submitted by **16 March 2020**.

20/03/2019

- **Decision on thresholds for reporting net short positions.**
- **Public statement: Actions to mitigate the impact of COVID-19 on the EU financial markets**
- **ESMA recommends action by financial market participants for COVID-19 impact**

1. Context

In early March 2020, the World Health Organization (WHO) declared the outbreak of COVID-19 as a pandemic originating in Wuhan, China. The pandemic situation caused by COVID-19 has led to an abrupt increase in uncertainty that can threaten both economic growth and financial stability. Since the beginning of March, various agencies at both the local and supranational levels have begun to issue measures to mitigate the possible impact that this pandemic could have on the economy.

In this context, the ESMA has issued a **Decision on thresholds for reporting net short positions** in order to assess the proper functioning, ensure market integrity and reduce market volatility due to the stock market impact of COVID-19. Furthermore, the ESMA also has published a **Public statement on actions to mitigate the impact of COVID-19 on the EU financial markets** with the aim of postposing the reporting obligations related to securities financing transactions (SFTs) under the Securities Financing Transactions Regulation (SFRT). Finally, the ESMA has also published a set of **Recommendations to financial market participants** with the aim of ensuring the efficient functioning of the market.

2. Main points

Decision on thresholds for reporting net short positions.

- **Temporary additional transparency obligations**. A natural or legal person who has a net short position in relation to the issued share capital of a company that has its shares admitted to trading on a regulated market shall notify the relevant competent authority where the position equals 0.1% of the issued share capital of the company concerned and each 0.1% above that threshold too.
- **Exemptions**. The temporary additional transparency obligations shall not apply to:
    - Shares admitted to trading on a regulated market where the principal venue for the trading of the shares is located in a third country.
    - Market making activities.
    - A net short position in relation to the carrying out of a stabilization under European regulation on market abuse.

Public statement: Actions to mitigate the impact of COVID-19 on the EU financial markets

- **SFTR application**. ESMA expects competent authorities:
    - Not to prioritise their supervisory actions in respect of SFT reporting obligations, under SFTR and Markets in Financial Instruments (MIFIR), as of 13 April and until 13 July 2020, including regarding to SFTs concluded in that period of time.
    - Generally apply their risk-based approach in the exercise of supervisory powers.

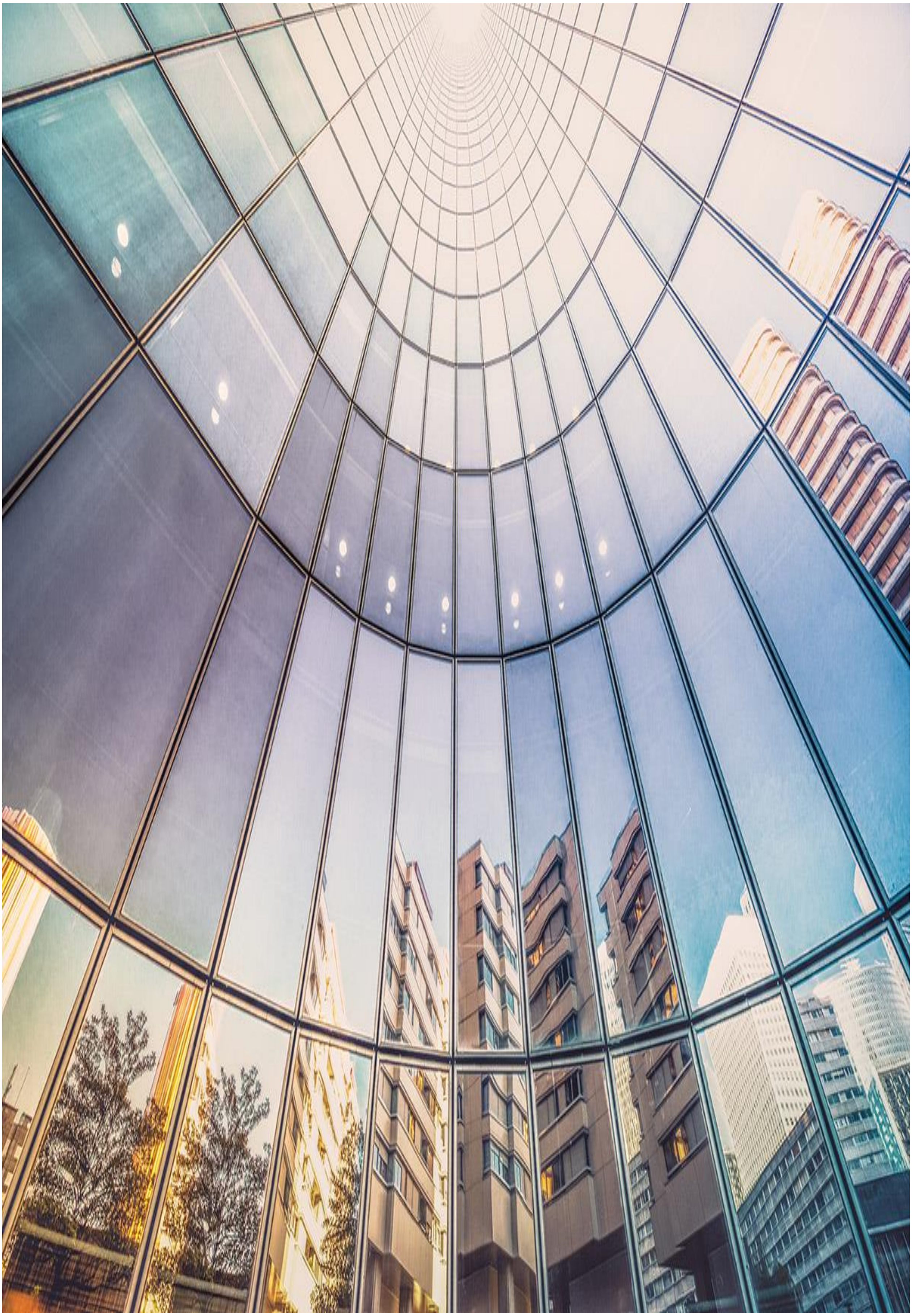
Furthermore, ESMA does not consider it necessary to register any Trade Repository (TR) ahead of 13 April 2020.

ESMA recommends action by financial market participants for COVID-19 impact

- **Recommendations**. ESMA makes the following recommendations to financial market participants:
    - Business Continuity Planning. Financial market participants, should be ready to apply their contingency plans to ensure operational continuity in line with regulatory obligations.
    - Market disclosure. Issuers should disclose any relevant significant information concerning the impacts of COVID-19 on their fundamentals, prospects or financial situation in accordance with their transparency obligations under the Market Abuse Regulation (MAR).
    - Financial Reporting. Issuers should provide transparency on the impacts of COVID-19, to the extent possible based on a qualitative and quantitative assessment on their business activities, financial situation and economic performance in their 2019 year-end financial report.
    - Fund Management. Asset managers should continue to apply the requirements on risk management, and react accordingly.

3. Next steps

- The temporary thresholds for reporting net short positions will be applicable until **16 June 2020**.



27/02/2020

Real Decreto 309/2020 sobre el régimen jurídico de los establecimientos financieros de crédito por el que se modifica el Reglamento del Registro Mercantil, y el Real Decreto 84/2015 por el que se desarrolla la Ley 10/2014 de ordenación, supervisión y solvencia de entidades de crédito

1. Context

In January 2014, financial credit institutions (FCIs) lost their status as credit institutions as a result of European and national regulatory developments. The new specific regime for FCIs came with Law 5/2015 on the promotion of business financing. However, there has been no regulatory develop since then, generating a problem of lack of legal certainty as they are subject to a regime similar to that of credit institutions, without there being adequate adaptation to the nature of their business, causing problems of interpretation for the supervisors and the institutions themselves.

In this context, the Spanish Government has published the **Royal Decree 309/2020 the legal regime for FCIs** with the aim to develop a legal regime for FCIs that is clear, comprehensible and adapted to the needs of the business, but at the same time equivalent in soundness to the established for credit institutions. In particular, this Royal Decree will improve the protection of the financial client and competition in the provision of loans, while maintaining the prudential standards that should define such activity.

2. Main points

- **Activity requirements**. This RD includes the activity requirements of the FCIs, among which the following stand out:
  - The definition of FCIs and their form of financing is provided, which differentiates these entities from credit institutions since they cannot raise repayable funds from the public (i.e. deposits, loans, repurchase agreements or similar).
  - The authorisation, registration and activity of FCIs is regulated. The new regime for the authorisation of hybrid institutions, which are configured as payment or electronic money institutions that carry out the activities of FCIs and for which a single authorisation has been designed, should be highlighted. It also includes the regulation of cross-border activity and the regime for opening offices and acting through agents.
  - The provisions regarding significant shareholdings; suitability requirements, incompatibilities and registration of senior executives; and corporate governance and remuneration policy are reinforced.
- **Solvency and conduct obligations**. This RD introduces modifications subjecting FCIs to prudential requirements that are comparable to those applied to credit institutions in terms of soundness. The main amendments include the following:
  - The capital conservation buffer and the counter-cyclical buffer will not apply to those entities that are considered SMEs.
  - A liquidity buffer is established that FCIs must maintain in order to cope with their liquidity outflows during a sufficiently long period of stress in the financial markets.
  - Obligation to maintain an adequate structure of financing sources and maturities of assets, liabilities and commitments.
  - Less frequent solvency reporting obligations than those required of credit institutions.
- **FCIs supervision**. The control and inspection of FCIs and consolidated groups of FCIs will be carried out by the BoS. In addition, when the BoS develops or endorses guidelines issued by international organisations or committees to the supervised entities and groups, it shall decide whether they also apply to the FCIs.

3. Next steps

- This Royal Decree will enter into force on **1 July 2020** with two exceptions:
  - Article 30, which regulates the **liquidity buffer and the structure of the sources of financing of the FCIs**, will enter into force **three months after** the publication of the Bank of Spain's circular implementing the provisions of this article.
  - The second final provision on **auditing processes** will enter into force on the **day following** its publication in the Boletín Oficial del Estado (BOE).

GOBIERNO DE ESPAÑA

20/03/2020

Real Decreto-ley 8/2020, de 17 de marzo, de medidas urgentes extraordinarias para hacer frente al impacto económico y social del COVID-19

1. Context

In early March 2020, the World Health Organization (WHO) declared the outbreak of COVID-19 as a pandemic originating in Wuhan, China. The pandemic situation caused by COVID-19 has led to an abrupt increase in uncertainty that can threaten both economic growth and financial stability. Since the beginning of March, various agencies at both the local and supranational levels have begun to issue measures to mitigate the possible impact that this pandemic could have on the economy. In this sense, the Spanish Government has adopted the Royal Decree Law 7/2020 adopting urgent measures to address the economic impact of COVID-19, and the Royal Decree 463/2020 declaring the state of alarm for the management of the health crisis caused by COVID-19.

In this context, the Spanish Government has published the **Royal Decree-law 8/2020 on urgent extraordinary measures to deal with the economic and social impact of COVID-19**, with the aim of adopting measures to strengthen the liquidity of the productive sector and prevent solvent companies negatively affected by the temporary and exceptional economic crisis caused by COVID-19 from leaving the market.

2. Main points

- **Measures to support workers, families and vulnerable groups**. Measures are taken to ensure home care for dependent persons, to extend protection in the field of energy and water supply, and in the provision of telecommunications services. The protection of self-employed workers is also strengthened and a suspension of mortgage payments for particularly vulnerable groups is provided. In particular, the suspension of mortgage payments includes the following characteristics:
    - Scope of application. Loan or credit contracts guaranteed by a real estate mortgage whose debtor is in a situation of vulnerability. This extends with the same conditions to the guarantors of the main debtor.
    - Request for the suspension of mortgage payments. The request can be submitted up to 15 days after the end of the Royal Decree-Laws effective date.
    - Concession. The suspension of mortgage payments will be implemented within a maximum of 15 days. Once the suspension has been granted, the credit institution shall inform the Bank of Spain (BoS) of its existence and duration for accounting purposes and of the fact that it has not been included in the calculation of risk provisions.
- **Measures to make the temporary activity adjustment mechanisms more flexible to avoid layoffs**. Measures are adopted in the area of temporary suspension of contracts (ERTEs) to prevent a situation such as the current one from having a negative structural impact on employment:
    - It is specified that activity losses as a result of COVID-19 will be considered force majeure for the purposes of suspending contracts or reducing working hours and the processing of employment regulation procedures is facilitated.
    - Contributory unemployment benefit for workers affected by an ERTE even if they do not have the necessary contribution to have acces to it.
    - Companies are exempted from paying 75% of the employer's Social Insurance contribution for companies with 50 workers or more, and 100% for companies with less than 50 workers.
- **Liquidity guarantee to sustain economic activity**. A number of measures are established to ensure such liquidity guarantee:
    - State-guaranteed line for companies and self-employed professionals of up to € 100 MM euros, covering both loan renewals and new financing.
    - The net borrowing capacity of the Official Credit Institute (ICO) is increased by € 10 MM to immediately provide additional liquidity to companies, especially SMEs and the self-employed.
    - Creation of an insurance coverage line of up to € 2 MM to be charged to the Internationalisation Risk Reserve Fund.
    - Customs import procedures are simplified in the industrial sector.
    - The resolution of public contracts by all public institutions is prohibited.
- **Measures to support COVID-19 research**. Research on the disease is encouraged for the development of effective medicines and vaccines to help contain the impact of future outbreaks.

3. Next steps

- The measures provided for in this Royal Decree-law shall remain in force for a **period of one month** from its entry into force, without affecting the fact that, following an assessment of the situation, their duration may be extended by the Government through a Royal Decree-law.

07/02/2020

Circular 1/2020 por la que se modifican disposiciones relativas a la Central de Información de Riesgos

1. Context

In March 2019, Law 5/2019 which regulates real estate credit contracts, came into force. This law included, among other amendments, the possibility of giving all real estate credit lenders access to the BoS's Central Credit Register (CIR) . As a result of this amendment, the perimeter of reporting institutions was extended to include real estate lenders and other credit institutions, and access to risk reports was facilitated for credit intermediaries.

In this context, the BoS has issued the **Circular 1/2020 amending provisions relating to the Central Credit Register**, with the aim of improving the consistency of the information collected through the CIR and clarifying the information to be submitted for certain transactions, reorganizing the way the information is presented in some modules and introducing some additional dimensions.

2. Main points

- **Scope of application**. This Circular extends the scope of the reporting institutions that are required to send information to the CIR, including real estate lenders and credit institutions operating under the regime of freedom to provide services.
- **Access to risk reports**. This Circular allows real estate credit intermediaries to have access to reports on the risks of natural and legal persons registered with the CIR under the same conditions as reporting institutions, with the aim of increasing the information available to institutions to assess the risks of their customers.
- **Data modules**. This Circular modifies certain data modules that reporting institutions have to submit, including new complementary data on loans to legal institutions and collaterals and guarantees received, among others. In addition, this Circular exempts certain reporting institutions from the submission of some data modules (e.g. Spanish credit institutions and branches in Spain of foreign credit institutions whose head office is not located in another country of the European Economic Area shall not report the data module on the activity of credit institutions operating under the freedom to provide services and of real estate lenders).

3. Next steps

- The Circular will enter into force on **25 February 2020**.

CNMV
Comisión Nacional del Mercado de Valores

19/03/2020
Prohibición temporal de la constitución o incremento de posiciones cortas netas sobre acciones cotizadas

1. Context

In early March 2020, the World Health Organization (WHO) declared the outbreak of COVID-19 as a pandemic originating in Wuhan, China. The pandemic situation caused by COVID-19 has led to an abrupt increase in uncertainty that can threaten both economic growth and financial stability. Since the beginning of March, various agencies at both the local and supranational levels have begun to issue measures to mitigate the possible impact that this pandemic could have on the economy.

In this context, the CNMV has published the **temporary ban on forming or increasing net short positions on listed shares**, in order to reduce volatility and avoid speculative movements in the Spanish Stock Markets and Alternative Stock Market (MAB).

2. Main points

- **Prohibition on short positions**. The prohibition applies to any transaction in shares or indexes, including spot trading, exchange-traded derivatives or OTC derivatives, which involves creating a net short position or increasing a pre-existing one, even if it is on an intraday basis. For the purposes of this prohibition, net short positions are defined as positions resulting from any of the following cases:
    - The short sale of shares issued by a company or of debt instruments issued by a sovereign issuer.
    - Carrying out a transaction through a financial instrument whose effect is to confer a financial advantage on the natural or legal person carrying out that transaction in the event of a decrease in the price or value of the share or debt instrument.
- **Exemptions**. The following operations are excluded from the scope of the prohibition:
    - Market creation activities under the terms of European regulations.
    - The creation or increase of net short positions when the investor who purchases a convertible bond has a neutral position in terms of delta between the position in the convertible bond's equity element and the short position taken to cover that element.
    - The creation or increase of net short positions when the creation or increase of the short stock position is covered by an equivalent purchase in terms of the proportion of subscription rights.
    - The creation or increase of net short positions through derivative financial instruments on indices or baskets of financial instruments that do not consist mainly of securities affected by the prohibition.

3. Next steps

- The ban is effective until **17 April 2020** and may be extended for a further period not exceeding 3 months or lifted at any time before the expiration of that period, if deemed necessary.

31/01/2020
Final Rule on transparency for determining control of a banking organization

1. Context

The Bank Holding Company Act (BHCA) establishes the percentage of voting securities that one company controls of a second company to consider that has control over it. Under the statute, a company that controls 25 percent or more of any class of voting securities of a second company controls the second company. Similarly, a company that controls less than 5 percent of any class of voting securities of a company is presumed not to control the second company. This statutory framework leaves a space between 5 percent and 25 percent of a class of voting securities where a company does not have clear statutory control and is not presumed not to control.

In this context, the Fed has issued the **Final Rule on transparency for determining control of a banking organization** in order to determine whether a company has the ability to exercise a controlling influence over another company for purposes of the BHCA or the Home Owners' Loan Act (HOLA). In particular, this regulation covers the tiered presumptions and exclusions in the determination of control.

2. Main points

- **Determination of control**. The Fed may issue a preliminary determination of control if it appears that a company has the power to exercise a controlling influence over a bank or other company.
- **Presumptions of control**. The presumptions are arranged in tiers based on the level of voting securities of the first company in the second company. Each of these presumptions applies where the first company has at least a specified level of voting securities in a second company, and another specified relationship with the second company. The presumptions effectively assume that higher levels of business relationships, combined with higher levels of voting securities, increase the likelihood of the ability to exercise a controlling influence. The presumptions established by the Fed are, among others, the following:
  - Level of <u>representation on the board of directors</u> of a second company
  - Company's <u>business relationships</u> with a second company
  - Number of <u>senior management interlocks</u> with a second company
  - Capability of setting <u>contractual limits on major operational or policy decisions</u>.
  - Level of <u>control of the total equity</u> of a second company
  - Agreements that allow a company to direct or exercise <u>significant influence over the core business or policy decisions</u> of a second company
  - <u>Consolidation</u> with a second company for purposes of GAAP

3. Next steps

- This final rule will be effective on **April 1, 2020**.

06/03/2020
Final rule on simplifications to the Capital Rule for large banks

1. Context

The resiliency of large financial institutions is critical to the stability of the financial sector. In this regard, the Fed's stress testing and the Comprehensive Capital Analysis Review (CCAR) programs have significantly increased the resiliency of the banking sector and led to stronger capital planning practices at large bank holding companies.

In this context, after the publication of the Proposal on April of 2018, the Fed has published the **Final rule on simplifications to the Capital Rule for large banks**, in order to simplify its capital rules for large banks while preserving strong capital levels that would maintain their ability to lend under stressful conditions; reduce burden for smaller, less complex firms; and align certain elements of the stress test with expected actions by banking firms in a stress scenario. In particular, the Proposal covers the integration of certain elements of the Fed's capital regime (e.g. new stress buffer requirements), changes to CCAR, and changes to capital plan rule procedures.

This Proposal would apply to bank holding companies with $50 billion or more in total consolidated assets and US intermediate holding companies of foreign banking organizations.

2. Main points

- **Integration of certain elements of the Fed's capital regime**. The Final Rule simplifies the Fed's overall capital regime by integrating the capital rule and CCAR. Further, it introduces the following amendments:
    - <u>A risk-based stress capital buffer requirement</u>, which is calculated as the difference between the firm's starting and lowest projected CET1 ratio under the severely adverse scenario of the supervisory stress test (calculated using the standardized approach), plus the firm's planned common stock dividends for each of the fourth through seventh quarters of the planning horizon. This buffer would be no less than 2.5% of RWAs (replacing the static 2.5% buffer requirement under the standardized approach).
    - <u>Limitations on capital distributions and discretionary bonus payments</u>, as firms would be required to maintain capital ratios above its minimum plus its buffer requirements in order to avoid the application of such restrictions (e.g. dividend payments, or discretionary bonus payments made to executive officers).
    - <u>Assumptions related to planned capital distributions</u>, such as that the Fed no longer assumes that a firm makes any repurchases or redemptions of any capital instruments; or that the Fed eliminates the 30% dividend payout ratio.
    - <u>Adjusting assumptions about balance sheet behavior</u>, as the Fed modifies the approach to balance sheet projections in its supervisory test and the Stress Testing Policy Statement in order to include an assumption that the firm takes actions to maintain a constant level of assets, including loans, trading assets, and securities over the planning horizon, among others.
- **Changes to CCAR**. The Final Rule modifies certain elements of CCAR to reflect the introduction of the stress buffer requirements. Specifically, the Fed eliminates the quantitative objection and the process by which a firm determines the final planned capital distributions included in its capital plan. Furthermore, under certain conditions, the final rule no longer requires a firm to request prior approval to make distributions that exceed the amount included in its capital plan. For the largest and most complex firms, the qualitative review of a firm's capital plan and planned capital actions would continue to take place through the CCAR program.
- **Changes to capital plan rule procedures**. The Final Rule revises the procedures for a firm to request reconsideration of a qualitative objection to its capital plan and would apply the same procedures to allow a firm to request reconsideration of its stress buffer requirements.

3. Next steps

- This Final Rule will be effective on **60 days after date of publication** in the Federal Register. However, a firm's first stress buffer requirements would generally be effective on **October 1, 2020**.

31/01/2020
Final Rule on transparency for determining control of a banking organization

1. Context

The Bank Holding Company Act (BHCA) establishes the percentage of voting securities that one company controls of a second company to consider that has control over it. Under the statute, a company that controls 25 percent or more of any class of voting securities of a second company controls the second company. Similarly, a company that controls less than 5 percent of any class of voting securities of a company is presumed not to control the second company. This statutory framework leaves a space between 5 percent and 25 percent of a class of voting securities where a company does not have clear statutory control and is not presumed not to control.

In this context, the Fed has issued the **Final Rule on transparency for determining control of a banking organization** in order to determine whether a company has the ability to exercise a controlling influence over another company for purposes of the BHCA or the Home Owners' Loan Act (HOLA). In particular, this regulation covers the tiered presumptions and exclusions in the determination of control.

2. Main points

- **Determination of control**. The Fed may issue a preliminary determination of control if it appears that a company has the power to exercise a controlling influence over a bank or other company.
- **Presumptions of control**. The presumptions are arranged in tiers based on the level of voting securities of the first company in the second company. Each of these presumptions applies where the first company has at least a specified level of voting securities in a second company, and another specified relationship with the second company. The presumptions effectively assume that higher levels of business relationships, combined with higher levels of voting securities, increase the likelihood of the ability to exercise a controlling influence. The presumptions established by the Fed are, among others, the following:
    - Level of <u>representation on the board of directors</u> of a second company
    - Company's <u>business relationships</u> with a second company
    - Number of <u>senior management interlocks</u> with a second company
    - Capability of setting <u>contractual limits on major operational or policy decisions</u>.
    - Level of <u>control of the total equity</u> of a second company
    - Agreements that allow a company to direct or exercise <u>significant influence over the core business or policy decisions</u> of a second company
    - <u>Consolidation</u> with a second company for purposes of GAAP

3. Next steps

- This final rule will be effective on **April 1, 2020**.

25/03/2020

- **New measures to support the economy**
- **Interim Final Rule to revise TLAC Rule**

1. Context

Since the beginning of March 2020, various agencies at both the local and supranational levels have begun to issue measures to mitigate the possible impact that the COVID-19 could have on the economy. In the US, the Fed, FFIEC, SEC and CSBS are coordinating a joint effort to publish a series of measures and recommendations, among them it stands out the Fed's cut on the interest rates and the quantitative easing program.

In this context, the Fed has published **new measures to support the economy** in order to provide support to a wide range of markets and institutions, thereby supporting the flow of credit in the economy. Furthermore, the Fed has also published an **Interim Final Rule to revise TLAC Rule** that will facilitate the use of firms' buffers to promote lending activity to households and businesses.

2. Main points

New measures to support the economy

- **Support for critical market functioning**. The Federal Open Market Committee (FOMC) will purchase Treasury securities and agency mortgage-backed securities (including those backed by commercial mortgages) in the amounts needed to support smooth market functioning and effective transmission of monetary policy to broader financial conditions and the economy.
- **Supporting the flow of credit to employers, consumers, and businesses** by establishing new programs that, taken together, will provide up to $300 billion in new financing. The Department of the Treasury, using the Exchange Stabilization Fund (ESF), will provide $30 billion in equity to these facilities.
- **Establishment of three facilities to support credit**.
    - The Primary Market Corporate Credit Facility (PMCCF) to support credit to large employers for new bond and loan issuance. The PMCCF has the following characteristics:
        - Is open to **investment grade companies** and will provide **bridge financing** of four years.
        - Borrowers may elect to **defer interest** and **principal payments** during the first six months of the loan in order to have additional cash on hand that can be used to pay employees and suppliers.
    - The Secondary Market Corporate Credit Facility (SMCCF) to support credit to large employers by providing liquidity for outstanding corporate bonds. The SMCCF will purchase in the secondary market corporate bonds issued by investment grade companies and listed exchange-traded funds of the US whose investment objective is to provide broad exposure to the market for US investment grade corporate bonds.
    - The Term Asset-Backed Securities Loan Facility (TALF), to support the flow of credit to consumers and businesses. The TALF will enable the issuance of asset-backed securities (ABS) backed by student loans, auto loans, credit card loans, loans guaranteed by the Small Business Administration (SBA), and certain other assets. Under the TALF, the Fed will lend on a non-recourse basis to holders of certain AAA-rated ABS backed by newly and recently originated consumer and small business loans. The Fed will lend an amount equal to the market value of the ABS less a haircut and will be secured at all times by the ABS.
- **Facilitating the flow of credit to municipalities** by expanding:
    - The Money Market Mutual Fund Liquidity Facility (MMLF) to include a wider range of securities, including municipal variable rate demand notes (VRDNs) and bank certificates of deposit.
    - The Commercial Paper Funding Facility (CPFF) to include high-quality, tax-exempt commercial paper as eligible securities. In addition, the pricing of the facility has been reduced.

2. Main points (cont.)

Interim Final Rule to revise TLAC Rule

- **Modifications to TLAC Rule definitions**. The interim final rule revises the definition of eligible retained income in the TLAC rule to the greater of:
    - A covered company's net income for the four preceding calendar quarters, net of any distributions and associated tax effects not already reflected in net income.
    - The average of a covered company's net income over the preceding four quarters. This definition will apply with respect to all of the TLAC buffer requirements under the TLAC rule.

3. Next steps

- Comments on the Interim Final Rule to revise TLAC Rule must be received not later than **45 days after date of publication in the federal register**.

31/03/2020
Statement on supervisory activities

1. Context

The spread of COVID-19, and the several health and economic issues it is causing, has led to the reaction of regulators at both the local and supranational levels, that are issuing measures to mitigate the possible impact of this crisis on the economy. In the US, the Fed, FFIEC, SEC and CSBS are coordinating a joint effort to publish a series of measures and recommendations, among them it stands out the Fed's cut on the interest rates and the quantitative easing program.

In this context, the Fed has published a **statement on supervisory activities** in order to provide additional information to financial institutions regarding adjustments to the agencies supervisory approach in light of the COVID- 2019. In this statement, the Fed outlines actions that are intended to help financial institutions to deploy their resources as efficiently as possible and continue to support their customers and local economies in a prudent and fair manner while meeting current challenges.

2. Main points

- **Working with customers**. The Fed encourages financial institutions to work prudently with borrowers who are or may be unable to meet their contractual payment obligations because of the effects of COVID-19.
- **Increased Focus on Monitoring**. The Fed has placed its focus on monitoring efforts:
    - For all firms, supervisors will focus on continued monitoring and analysis of operations, liquidity, capital, asset quality, and impact on consumers.
    - For large financial institutions, supervisors will focus additionally on operational resiliency and potential impacts on broader financial stability.
- **Changed Focus on Examinations**. The Fed is reducing its focus on examinations and inspections, which will be temporally conducted off-site:
    - For supervised institutions with less than $100 billion in total consolidated assets, the Fed generally intends to cease all regular examination activity, except where the examination work is critical to safety and soundness or consumer protection, or is required to address an urgent or immediate need.
    - For supervised institutions with assets greater than $100 billion, the Fed intends to defer a significant portion of planned examination activity based on its assessment of the burden on the institution and the importance of the exam activity to the supervisory understanding of the firm, consumer protection, or financial stability.
- **Extended Time Periods for Remediation of Supervisory Findings**. The Fed is extending the time periods for remediating existing supervisory findings by 90 days, unless the Fed notifies the firm that a more timely remediation would aid the firm in addressing a heightened risk or help consumers.
- **Continuous Communication with Institutions**. The Fed will continue to communicate with financial institutions as this situation unfolds, including through additional statements, webinars, frequently asked questions, and other means.

3. Next steps

- The Fed intends to reassess its approach to examinations in the **last week of April** to determine whether conditions have changed.
- Firms should submit the capital plans that they have developed with respect to the upcoming Comprehensive Capital Analysis and Review (CCAR) by **April 6, 2020**.

11/03/2020

Proposed Guidance on resolution planning for eight large, complex U.S. Banking Organizations

1. Context

According to the Dodd-Frank Act, certain financial companies are required to report periodically to the Fed and the FDIC (the agencies) their plans for rapid and orderly resolution under the U.S. Bankruptcy Code in the event of material financial distress or failure. In this regard, in April 2016 the agencies issued a Guidance on resolution planning in order to assist the development of the covered companies' 2017 resolution plans. Furthermore, in 2018, the agencies issued the Guidance on resolution planning for eight large, complex U.S. Banking Organizations, which updated the agencies' expectations for how a firm's resolution strategy should address certain aspects like capital, liquidity or governance mechanisms.

In this context, the Fed and the FDIC have now published a **Proposed Guidance for Resolution Plan Submissions of Certain Foreign Banking Organizations (FBOs)**, that updates the agencies' expectations for how a firm's resolution strategy should address the following aspects: i) capital, ii) liquidity, iii) governance mechanisms, iv) operational, v) legal entity rationalization and separability and vi) derivatives and trading activities.

2. Main points

- **Scope of application**. The proposed guidance would apply to FBOs that are triennial full filers and whose U.S. Intermediate Holding Companies (IHCs) have a method 2 G-SIB score of 250 or more. The Specified FBOs as of the date of this proposal would be U.S. operations of Barclays, Credit Suisse, and Deutsche Bank.
- **Capital**. The Proposal describes expectations concerning:
    - The appropriate positioning of capital and other loss-absorbing instruments (e.g. debt that the parent may forgive or convert to equity) among the U.S. IHC and its subsidiaries (resolution capital adequacy and positioning or RCAP).
    - A methodology for periodically estimating the amount of capital that may be needed to support each U.S. IHC subsidiary after the U.S. IHC's bankruptcy filing (resolution capital execution need or RCEN).
- **Liquidity**. The Proposal establishes that a firm's ability to reliably estimate and meet its liquidity needs of the U.S. IHC and its subsidiaries prior to, and in, resolution is important to the execution of a Specified FBO's U.S. resolution strategy.
- **Governance mechanisms**. The Proposal sets out, among others, expectations that firms:
    - Have playbooks that describe the board and senior management actions of the U.S. non-branch material entities necessary to execute the firm's U.S. resolution strategy.
    - Have triggers that are linked to specific actions outlined in these playbooks to ensure the timely escalation of information to both U.S. IHC and foreign parent governing bodies.
    - Identify and analyze potential legal challenges to planned U.S. IHC support mechanisms, and any defenses and mitigants to such challenges.
- **Operational**. The Proposal establishes that firms should, among others:
    - Possess fully developed capabilities related to managing, identifying, and valuing the collateral that is received from external parties and its affiliates.
    - Have management information systems that readily produce key data on financial resources and positions on a legal entity basis.
    - Develop a clear set of actions to be taken to maintain payment, clearing and settlement activities.
    - Maintain an actionable plan to ensure the continuity of all of the shared and outsourced services that their critical operations rely on.
- **Legal entity rationalization and separability**. The Proposal states that firms should develop criteria supporting the preferred resolution strategy and integrate them into day-to-day decision making processes. It also provides that the firm should identify discrete and actionable operations that could be sold or transferred in resolution to provide meaningful optionality for the resolution strategy under a range of potential failure scenarios.
- **Derivatives and trading activities**. The Proposal sets out that firms should have capabilities to identify and mitigate the risks associated with their derivatives and trading activities and with the implementation of their preferred strategies.

3. Next steps

- Comments on this Proposal will be accepted for **60 days after date of publication** in the Federal Register.

19/03/2020

- **Federal Reserve Actions to Support the Flow of Credit to Households and Businesses (Fed)**
- **Federal Reserve issues Federal Open Market Committee (FOMC) statement (Fed)**
- **Coordinated Central Bank Action to Enhance the Provision of U.S. Dollar Liquidity (Fed)**
- **Agencies encourage financial institutions to meet financial needs of customers and members affected by coronavirus (FFIEC & CSBS)**
- **Look Out for Coronavirus-Related Investment Scams - Investor Alert (SEC)**
- **Interagency Statement on Pandemic Planning (FFIEC)**

1. Context

In early March 2020, the World Health Organization (WHO) declared the outbreak of COVID-19 as a pandemic originating in Wuhan, China. The pandemic situation caused by COVID-19 has led to an abrupt increase in uncertainty that can threaten both economic growth and financial stability. Since the beginning of March, various agencies at both the local and supranational levels have begun to issue measures to mitigate the possible impact that this pandemic could have on the economy.

In this context, the Fed, FFIEC, SEC and CSBS are coordinating a joint effort to publish a series of **measures and recommendations to mitigate the economic impact of COVID-19 on the US**.

2. Main points

- **Fed's measures**. The Fed has approved these measures:
  - The new Fed funds rate will now be targeted at 0% to 0.25% down from a previous target range of 1% to 1.25%, which had previously been cut on 3 March as a result of the outbreak of the crisis from the 1.50-1.75% range.
  - Slash the primary credit rate of the discount window for depository institutions by 150 basis points, to 0.25%, and the extension of the term that deposit institutions can borrow from the discount window for periods of up to 90 days, prepaid and renewable by the borrower on a daily basis.
  - Launch of a $700 billion quantitative easing program that will take the form of $500 billion of Treasurys and $200 billion of agency-backed mortgage securities.
  - The Fed and other central banks (Canada, England, Japan, Switzerland and European Central Bank) in order to enhance the provision of liquidity have agreed to lower the pricing on the standing U.S. dollar liquidity swap arrangements by 25 basis points, so that the new rate will be the US dollar overnight index swap (OIS) rate plus 25 basis points.
- **SEC's recommendations**. The SEC urge investors to be aware of the potential fraud related to COVID-19. The SEC recommendations for investors are:
  - Be cautious of claims that a company's products or services can help stop the coronavirus, especially claims that involve microcap stocks. These claims may be made as part of fraudulent "pump-and-dump" schemes.
  - Investors may lose significant amounts of money if they invest in a company that makes inaccurate or unreliable claims. Investors may not be able to sell your shares if trading in the company is suspended.
  - Submissions of tips, complaints, or referrals relating to suspected securities fraud or wrongdoing can be made online at SEC website.
- **FFIEC's measures**. The FFIEC jointly with the CSBS has published recommendations to financial institutions to meet financial needs of customers and members affected by coronavirus. Specifically, this agencies will:
  - Encourage financial institutions to meet the financial needs of customers, members and operations affected and will provide appropriate regulatory assistance to affected institutions subject to their supervision.
  - Work with affected financial institutions in scheduling examinations or inspections to minimize disruption and burden.

Furthermore, the FFIEC has issued the Interagency Statement Pandemic Planning. This guidance identifies actions that financial institutions should take to minimize the potential adverse effects of a pandemic. The institution's business continuity plan (BCP) should address:

  - A preventing program (e.g. monitoring of potential outbreaks).
  - A documented strategy that provides for scaling the institution's pandemic efforts.
  - A comprehensive framework of facilities, systems or procedures to provide the organization the capability to continue its critical operations.
  - A testing program.
  - An oversight program to ensure ongoing review and updates to the BCP.

23/03/2020

- **Interim Final Rule for Money Market Liquidity Facility (Fed, FDIC, OCC)**
- **Interim Final Rule to revise the short-term investment fund (STIF) rule for national banks acting in a fiduciary capacity (OCC)**

1. Context

Since the beginning of March 2020, various agencies at both the local and supranational levels have begun to issue measures to mitigate the possible impact that the COVID-19 could have on the economy. In the USA, the Fed, FFIEC, SEC and CSBS are coordinating a joint effort to publish a series of measures and recommendations, among them it stands out the Fed's cut on the interest rates and the quantitative easing program.

In this context, the Fed, FDIC and OCC (the Agencies) have published an **Interim Final Rule for Money Market Liquidity Facility (MMLF)** in order to allow banking organizations to neutralize the effects of purchasing assets through the program on risk-based and leverage capital ratios. Furthermore, the OCC has also published an **Interim Final Rule to revise the short-term investment fund (STIF) rule for national banks acting in a fiduciary capacity** that allows the OCC to authorize banks to temporarily extend maturity limits of these funds.

2. Main points

Interim Final Rule for Money Market Liquidity Facility

- **MMLF capital exemptions**. The agencies believe that it would that it would be appropriate to exclude the effects of purchasing assets through the MMLF from a banking organization's regulatory capital, because of the non-recourse nature of the Fed's extension of credit to the banking organization. In particular, the interim final rule would permit banking organizations to exclude non-recourse exposures acquired as part of the MMLF from a banking organization's total leverage exposure, average total consolidated assets, advanced approaches-total risk-weighted assets, and standardized total risk-weighted assets, as applicable.

Interim Final Rule to revise the STIF rule for national banks acting in a fiduciary capacity

- **Amendment of the STIF rule**. The OCC is amending the OCC STIF Rule to add a reservation of authority provision addressing the rule's limits on weighted average portfolio maturity, weighted average portfolio life maturity, and the method for determining those limits. The OCC believes that the temporary nature of the need for relief, and the uncertainty associated with future market conditions, counsel the OCC's use of a flexible method of administering relief from the limits, rather than a direct rule amendment to the limits themselves. The interim final rule sets out a framework under which the OCC's reservation of authority will be exercised in the format of an OCC administrative order.

3. Next steps

- Comments on the Interim Final Rule for MMLF must be received not later than **45 days after date of publication in the federal register**.
- Comments on the Interim Final Rule to revise the STIF rule for national banks acting in a fiduciary capacity must be received not later than **45 days after date of publication in the federal register**.

BANK OF ENGLAND

18/03/2020
- **Bank of England measures to respond to the economic shock from Covid-19**
- **Covid Corporate Financing Facility (CCFF)**

1. Context

In early March 2020, the World Health Organization (WHO) declared the outbreak of COVID-19 as a pandemic originating in Wuhan, China. The pandemic situation caused by COVID-19 has led to an abrupt increase in uncertainty that can threaten both economic growth and financial stability. Since the beginning of March, various agencies at both the local and supranational levels have begun to issue measures to mitigate the possible impact that this pandemic could have on the economy.

In this context, the BoE has issued a set of **Measures to respond to the economic shock from COVID-19** with the aim to help UK businesses and household bridge across the economic disruption that is likely to be associated with Covid-19. Furthermore, the BoE and HM Treasury have launched a **Covid Corporate Financing Facility (CCFF)** with the objective of helping businesses across a range of sectors to pay wages and suppliers, even while experiencing severe disruption to cash flows.

2. Main points

Measures to respond to the economic shock from Covid-19

- **Reduction of Bank Rate and new Term Funding Scheme**. The Monetary Policy Committee (MPC) has issued this measures:
  - Reduction of Bank Rate 50 basis points to 0.25%.
  - Introduction of a new TFSME with additional incentives financed by the issuance of central bank reserves, at 10 MM €.
  - Maintenance of the stock of UK government bond purchase, financed by the issuance of central bank reserves, at 435 MM €.
- **Release of the UK Countercyclical Capital Buffer (CCyB)**. The Financial Policy Committee (FPC) has approved a reduction of the UK CCyB to 0% of banks' exposures to UK borrowers with immediate effect. The rate had been 1% and had been due to reach 2% by December 2020. The FPC expects to maintain the 0% rate for at least 12 months, so that any subsequent increase would not take effect until March 2022 at the earliest. The Prudential Regulation Authority (PRA) expects firms not to increase dividends and other distributions in response to this policy action and will monitor firms's distributions. The PRA expects firms to ensure that any proposals or discussions relating to potential dividend or share buybacks are undertaken in a manner consistent with firms' safety and soundness and subject to a transparent governance process.

Covid Corporate Financing Facility (CCFF)

- **CCFF functioning**. The CCFF will provide funding to businesses by purchasing commercial paper of up to one-year maturity, issued by firms making a material contribution to the UK economy. Businesses do not need to have previously issued commercial paper in order to participate. The facility will:
  - offer financing on terms comparable to those prevailing in markets in the period before the COVID-19 economic shock
  - be open to firms that can demonstrate they were in sound financial health prior to the shock.
  - look through temporary impacts on firms' balance sheets and cash flows by basing eligibility on firms' credit ratings prior to the COVID-19 shock.

3. Next steps

- The BoE and HM Treasury will take **all further necessary steps** to support the UK economy and financial system.
- The CCFF will operate for at least **12 months** and for as long as steps are needed to relieve cash flow pressures on firms that make a material contribution to the UK economy.

BANK OF ENGLAND
PRUDENTIAL REGULATION AUTHORITY

03/03/2020
Consultation Paper 2/20 on Pillar 2A: Reconciling capital requirements and macroprudential buffers

1. Context

In July 2018, the European Banking Authority (EBA) published guidelines on the SREP process, which included the reconciliation of Pillar 2A requirements with buffer and macroprudential requirements. The PRA sets Pillar 2A capital for risks that are not fully captured under CRR. It assesses those risks as part of the SREP, in light of both the calculations included in a firm's Internal ICAAP document and the PRA's Pillar 2A methodologies set out in its Statement of Policy. Furthermore, on December 2019, the Financial Policy Committee (FPC) raised the level of the UK countercyclical capital buffer (CCyB) rate that it expects to set in a standard risk environment from in the region of 1% to in the region of 2%.

In this context, the PRA has published **Consultation Paper (CP) 2/20 on Pillar 2A: Reconciling capital requirements and macroprudential buffers**, in order to reduce variable Pillar 2A capital requirements to take account of the additional resilience associated with higher macroprudential buffers in a standard risk environment. The proposals in this CP are part of a package of changes that includes the review of the structural level and balance of capital requirements for the UK banking system undertaken by the FPC, with the purpose of increasing resilience, improving responsiveness of capital requirements to economic conditions and enhancing resolvability.

2. Main points

- **Reduce pillar 2A**. The PRA proposes on this CP to reduce Pillar 2A capital requirements with the aim of keeping total regulatory loss-absorbing capacity (TLAC) (i.e. minimum requirement for own funds and eligible liabilities (MREL) plus buffer) broadly constant. The PRA proposes to only reduce the variable component of total Pillar 2A capital requirements and would only be relative to the 1 percentage point increase in the standard risk-environment CCyB announced by the FPC.
    - For firms whose MREL exceeds total capital requirements (TCR) (i.e. Pillar 1 + Pillar 2A) the PRA proposes to reduce variable Pillar 2A capital requirements by 50% of the firm specific increase in the UK CCyB rate in a standard risk environment.
    - For firms whose MREL is equal to TCR and which are considered to have a low risk profile by the PRA, it is proposed to make an additional reduction of 50% of the firm-specific UK CCyB pass-through rate.
- **Interactions with the Leverage and MREL frameworks**. The PRA recognises that the proposed changes to the capital framework may increase individual firms' TLAC where banks are bound by existing UK leverage ratio requirements. UK firms with a bail-in or partial-transfer resolution strategy are required to maintain sufficient resources in a form that can be used in the event of a failure to absorb losses and allow for recapitalisation.
- **Interim MREL**. Due to the proposed Pillar 2A reduction, the Bank of England (BoE), as the UK resolution authority, set a transition period until 1 January 2022 for firms to meet their end-state MREL.
- **Internal MREL**. The BoE expects that internal MREL for a material subsidiary will be scaled in the range of 75% to 90% of the full amount of external MREL that the material subsidiary would otherwise be required to maintain if it were itself a UK resolution entity, which means a more limited benefit from the reduction in Pillar 2A.

3. Next steps

- Comments to this CP shall be submitted by **30 April 2020**.

BANK OF ENGLAND
PRUDENTIAL REGULATION AUTHORITY

23/03/2020
Supervisory and prudential policy measures to address the challenges of COVID-19

1. Context

Since the beginning of March 2020, various agencies at both the local and supranational levels have begun to issue measures to mitigate the possible impact that the COVID-19 could have on the economy. In the UK, the BoE issued a set of measures to respond to the economic shock from COVID-19 with the aim to help UK businesses and household bridge across the economic disruption that is likely to be associated with this virus. Furthermore, the BoE and HM Treasury launched a COVID Corporate Financing Facility (CCFF) with the objective of helping businesses across a range of sectors to pay wages and suppliers.

In this context, the BoE in collaboration with the PRA, have published **Supervisory and Prudential Policy Measures to Address the Challenges of COVID-19** with the aim of alleviating the operational burden on PRA-regulated firms and Bank-regulated financial market infrastructures (FMIs), as well as providing flexibility for them to continue to operate in a safe and sound manner.

2. Main points

- **Cancellation of the BoE's 2020 annual stress test**. The PRA has decided to cancel the 2020 stress test for the eight major UK banks and building societies in order to help lenders focus on meeting the needs of UK households and businesses via the continuing provision of credit.
- **Biennial exploratory scenario (BES) timetable**. Some amendments have been introduced on the BES timetable:
  - Liquidity. The BoE has paused this exercise until further notice the publication of the results of the 2019 BES on liquidity.
  - Climate risk. The BoE will take stock of the responses on the discussion paper on the 2021 BES on the financial risks from climate change as well as the evolving situation with a view to announcing the way forward for this exercise in the summer.
- **BoE statement on IFRS 9 and COVID-19**.
  - The PRA reminds firms that forward-looking information used to incorporate the impact of COVID-19 on borrowers into the expected credit loss (ECL) estimate needs to be both reasonable and supportable for the purposes of IFRS9.
  - The PRA expects firms to reflect the temporary nature of the shock, and fully take into account the significant economic support measures already announced by global fiscal and monetary authorities.
  - The BoE expects that eligibility for UK Government's policy on the extension of mortgage repayment holidays should not automatically, other things being equal, be a sufficient condition to move participating borrowers into Stage 2 ECL.
- **Open-ended funds**. The planned joint BoE - Financial Conduct Authority (FCA) survey into open-ended funds has been delayed until further notice. The BoE and PRA have identified a number of other prudential measures that will alleviate operational burdens on firms and FMIs at the current time:
  - Supervisory programmes for individual firms and FMIs: The BoE and PRA supervisors will review their work plans so that non-critical data requests, on-site visits and deadlines can be postponed, where appropriate.
  - BoE and PRA will postpone the deadline for their current consultations on Operational Resilience Policy Development.
  - Internal Ratings Based (IRB) models: The implementation of the proposals related to the definition of Default, Probability of Default (PD), and Loss Given Default (LGD) estimation, and the move to 'hybrid' IRB models will be delayed by one year to 1 January 2022. Firms using the standardised approach to credit risk will also benefit from a delay to changes they need to make as part of guidelines on definition of default.
  - Basel 3.1: The Government has announced that it will be introducing legislation that will enable the implementation of Basel 3.1 in the UK and HM Treasury anticipates a central role for UK regulators in designing and implementing Basel 3.1 requirements that will apply to firms.

04/05/2020

Consultative Document on Addressing the regulatory, supervisory and oversight challenges raised by "global stablecoin" arrangements

1. Context

In June 2019, the G20 called on the FSB to examine regulatory issues raised by so-called "global stablecoin" (GSC) arrangements and to advise on multilateral responses as appropriate, taking into account the perspective of emerging market and developing economies. Later in February 2020 the G20 reiterated the importance of evaluating and appropriately addressing the risks of GSC arrangements before they commence operation and supported the FSB's efforts to develop regulatory recommendations with respect to these arrangements.

In this context, the FSB has published a **Consultative Document on Addressing the regulatory, supervisory and oversight challenges raised by "global stablecoin" arrangements** which explains the characteristics and risks posed by GSC arrangements andtfg proposes 10 high-level recommendations that are addressed to regulatory authorities at jurisdictional level to advance consistent and effective regulation and supervision of GSC arrangements.

2. Main points

- **Description of GSCs and how they differ from other crypto-assets and other stablecoins**. A global stablecoin is a crypto-asset that aims to maintain a stable value relative to a specified asset, or a pool or basket of assets. The main characteristics of a global stablecoin that distinguishes it from other crypto-assets are:
  - The value of the stablecoin is stabilised through the use of a stabilisation mechanism which can be asset-linked or algorithm-based on changes in demand.
  - A stablecoin arrangement typically provides three core functions: i) issuance, redemption and stabilisation of the value of the coins; ii) transfer of coins, and iii) interaction with coin users for storing and exchanging coins.
  - The attribute global refers to the potential extent of the stablecoin's use as a means of payment or store of value in multiple jurisdictions.
- **Potential risks and vulnerabilities raised by GSCs**. Even though nowadays GSCs pose financial risks which are contained, if the use of stablecoins increase this could also create financial stability risks. Among some of the potential risks raised by GSCs we found:
  - If they are used as a common store of value even a moderate variation in its value might cause significant fluctuations in users' wealth.
  - If widely used for payments, any operational disruption in the GSC arrangement might have significant impacts on economic activity and financial system functioning.
  - Exposures of financial institutions might increase in scale and change in nature – particularly if financial institutions played multiple roles within a GSC arrangement.

  The FSB also highlights some of the potential vulnerabilities raised by GSCs:
  - Traditional financial risks (e.g. market, liquidity and credit risk) in a GSC arrangement.
  - Potential fragilities in the governance, operation and design of the GSC arrangement's infrastructure.
  - Applications and components on which users rely to store private keys and exchange coins.
- **Regulatory, supervisory and oversight approaches to GSCs**. On the one hand, it has been posed the application of international financial standards such as anti-money laundering and counter-terrorism financing rules published by Financial Action Task Force (FATF) or the Principles for Financial Market Infrastructures (PFMI) to GSC activities. On the other hand, most jurisdictions do not currently have regulatory regimes specific to crypto-assets in general or stablecoins in particular. Likewise, in most jurisdictions, existing regulatory, supervisory and oversight approaches, while not specific to crypto-assets or stablecoins, would apply in whole or part and would address some of the risks associated with stablecoins or with entities that are part of the stablecoin arrangement. For this reason, the authorities have planned to clarify how existing regimes apply to stablecoins and their providers, and that some adaptation of their regulation may be necessary to cover pending issues in regulation (e.g. incomplete implementation and coverage of FATF standards, insufficient risk mitigation tools within a regulatory framework applicable, etc.)
- **Challenges in a cross-border context**. Cross-border challenges are inherent to GSC arrangements because a stablecoin issued in one jurisdiction may be easily accessible online to users in another jurisdiction and operational and cyber security risks, related to the technology and infrastructure used in a stablecoin arrangement, may affect multiple jurisdictions. Furthermore, addressing the cross-border challenges requires effective cross-border cooperation, coordination and information sharing amongst the relevant authorities to ensure sufficient cross-border supervision and oversight of the stablecoin arrangement.
- **High-level recommendations**. This document sets out 10 high-level recommendations which aim to mitigate the potential risks with the use of GSCs as means of payment and/or store of value, both at the domestic and international level, while supporting responsible innovation and providing sufficient flexibility for jurisdictions to implement domestic approaches. These recommendations focus on reinforcing and underscoring existing standards and regulations; identifying and addressing potential regulatory gaps; and mitigating potential regulatory arbitrage.

3. Next steps

- Comments on this consultative document and responses to a set of questions established in it should be sent by **15 July 2020**.

FSB FINANCIAL STABILITY BOARD

11/05/2020

Guidance on financial resources to support central counterparty (CCP) resolution and on the treatment of CCP equity in resolution

1. Context

In November 2018, the FSB published a discussion paper Financial resources to support CCP resolution and the treatment of CCP equity in resolution, that set out considerations that may be relevant for authorities and crisis management groups (CMGs) with regard to evaluating whether existing financial resources and tools are adequate to implement the resolution strategy for individual CCPs and considerations that could guide authorities in developing possible approaches to the treatment of CCP equity in resolution.

In this context, the FSB has published a **Guidance on financial resources to support CCP resolution and on the treatment of CCP equity in resolution** that focuses on the assessment of the adequacy of financial resources and of the treatment of equity in the context of resolution, in order to help jurisdictions in determining whether there is a gap in the resources and tools available for resolution that must be addressed.

2. Main points

- **Assessment of the adequacy of financial resources to support CCP resolution**. This guidance establishes a five-step process for assessing the adequacy of financial resources and tools available to authorities to support the resolution of a CCP:
  - Step 1. Identifying hypothetical default and non-default loss scenarios (and a combination of them) that may lead to resolution.
  - Step 2. Conducting a qualitative and quantitative evaluation of existing resources and tools available in resolution. In particular, the objective would be to evaluate for each scenario:
    - The **availability of existing resources**, including resources available to cover relevant costs.
    - The **ability to rely on particular tools** to create resources.
    - The **potential that the use of these resources or tools** would have an adverse effect on financial stability.
  - Step 3. Assessing potential resolution costs that could arise in the resolution of a CCP in the various scenarios identified in Step 1. Such costs include both losses and costs that must be covered by available resources.
  - Step 4. Comparing existing resources and tools to resolution costs and identifying any gaps. This analysis should consider, among other, the availability and sufficiency of existing resources and tools to cover the type of costs they are intended for and to cover other type of costs, or the time horizon for executing the resolution strategy and the manner for paying resolution costs.
  - Step 5. Evaluating the availability, costs and benefits of potential means of addressing any identified gaps. In particular, the resolution authority (RA) should consider at least the following points:
    - Whether **additional tools or resources** may be necessary to **support resolution**.
    - What **options** exist for **addressing** any identified **gaps**.
    - The **costs**, **benefits** and likely **unintended consequences** of each option.
    - How to **involve** the relevant **oversight and/or supervisory authorities** to close the potential gaps.
    - The **financial stability implications** of each option.
    - Whether the resolution strategy could be adjusted to **optimise the use of available financial resources**, either as a standalone option to address any identified gap or in addition to requiring additional financial resources.

2. Main points (cont.)

- **Treatment of CCP equity in resolution**. One of the objectives of an effective resolution regime is to provide mechanisms enabling shareholders and creditors to absorb losses in a manner that respects the hierarchy of claims in liquidation. Thus, in a resolution CCP equity should absorb losses first, that CCP equity should be fully loss-absorbing, and RAs should have powers to write down (fully or partially) CCP equity. In this sense, this guidance sets outs a framework for the RAs to assess the treatment of CCP equity in resolution:
  - Addressing the treatment of CCP equity in resolution plans. Based on the analysis on the impact that any limits on the amount of CCP equity exposed to losses have on its ability to take appropriate action to achieve the treatment of CCP equity, the RA, in cooperation with the CCP's oversight and/or supervisory authorities, may decide to adjust the exposure of CCP equity to losses or consider additional options to address the identified limitations.
  - Mechanisms for adjusting the treatment of CCP equity in resolution. A RA should consider and incorporate in the resolution strategy possible mechanisms for adjusting the exposure of CCP equity to losses in resolution to achieve the correct treatment of CCP equity. Among other, possible adjustment mechanisms include dilution of existing ownership by raising new capital through conversion or issuance of new shares.
  - Implementing policy for the treatment of CCP equity in resolution. Based on the analysis undertaken in accordance with the previous sections, the relevant home authorities should address the challenges relating to CCP equity fully bearing losses in resolution. This may include, where possible, that home authorities having the relevant powers and authority require that CCPs modify their capital structures, rules or other governance documents in a manner that subordinates shareholders to other creditors or sets out the point at which equity absorbs losses in legally enforceable terms.

3. Next steps

- The FSB will consider in **five years after** the publication of the final guidance, in consultation with the Committee on Payments and Market Infrastructures-International Organization of Securities Commissions (CPMI-IOSCO), whether further adjustments are needed to this guidance in light of market developments and resolution authorities' experience with using the guidance.

20/04/2020
Measures to reflect the impact of COVID-19

1. Context

Governments and banks in many jurisdictions have introduced extraordinary measures to alleviate the financial and economic impact of COVID-19. The relief measures include a range of different payment moratoriums and government guarantees. This measures have an impact on the expected credit losses (ECLs) of banks and risk-based capital requirements.

In this context, the BCBS has issued **Measures to reflect the impact of COVID-19** which sets out technical guidance related to the exceptional measures introduced by governments and banks to alleviate the impact of the COVID-19 and ECL accounting. The guidance seeks to ensure that banks reflect the risk-reducing effect of the exceptional measures when calculating their capital requirements. It also sets out the amended transitional arrangements for the regulatory capital treatment of ECL accounting, which will provide jurisdictions with greater flexibility in how to phase in the impact of ECL on regulatory capital.

2. Main points

- **Treatment of extraordinary support measures related to COVID-19**.
    - <u>Loans subject to government guarantees</u>. When determining a bank's credit risk requirement for loans that are subject to sovereign guarantees, the relevant sovereign risk weight should be used, as set out in the IRB and Standardized approach of the Basel Framework.
    - <u>Loans subject to payment moratoriums and non-performing assets</u>. BCBS has agreed that payment moratorium periods relating to the COVID-19 outbreak can be excluded by banks from the counting of days past due. Also, the BCBS has agreed that bank's assessments should be based on whether the borrower is unlikely to repay the rescheduled payments.
    - <u>Exposures subjected to forbearance</u>. BCBS has agreed that if borrowers accept the terms of a payments moratorium or have access to other relief measures such as public guarantees, this should not automatically lead to the loan being categorised as forborne.
- **ECLs**. BCBS expects ECL estimates to reflect the mitigating effect of the significant economic support and payment relief measures put in place by public authorities and the banking sector using the flexibility inherent in IFRS 9.
- **Transitional arrangements**. BCBS has agreed on the following amendments to the existing transitional arrangements for the regulatory capital treatments of ECLs:
    - Jurisdictions may apply the existing transitional arrangements even if they <u>were not initially implemented</u> when banks first adopted the ECL model.
    - Jurisdiction allow to <u>switch from the static approach to the dynamic approach</u> to determine the transitional adjustment amount.
    - Jurisdictions may use <u>alternative methodologies</u> that aim to approximate the cumulative difference between provisions under the ECL accounting model and provisions under the prior incurred loss accounting model.
    - For the 2 year period comprising the years 2020 and 2021, jurisdictions may allow banks to <u>add-back up to 100% of the transitional adjustment amount to CET1</u>. The "add-back" amount must then be phased-out on a straight line basis over the subsequent 3 years.

11/05/2020

Progress in adopting the Principles for effective risk data aggregation and risk reporting

1. Context

In January 2013, the BCBS issued the principles for effective risk data aggregation and risk reporting (RDA&RR). These principles, which became effective in January 2016, aim to improve risk management practices and decision-making processes by strengthening banks' risk data aggregation and risk reporting practices. Since the publication of this framework, the BCBS has been monitoring banks' implementation issuing progress reports, the last one on June 2018.

In this context, the BCBS has published its sixth **Progress report on bank´s adoption of the RDA&RR principles**. This report provides an overview of banks' extent of compliance with the principles, including key observations by supervisors; analyses the implementation of the principles by global systemically important banks (G-SIBs); and proposes key recommendations to further facilitate implementation.

2. Main points

- **Scope of the assessment**. Supervisors in 12 jurisdictions with G-SIBs under their supervision completed an assessment questionnaire, whose responses included 34 banks designated as G-SIBs between 2011 and 2019.
- **Assessment results**. Supervisors were asked to rate their banks' current levels of compliance with each of the principles, and the results show that:
    - Banks have made notable improvements in their implementation of the principles since the previous assessment, especially on governance, risk data aggregation capabilities and risk-reporting practices. However, some banks still have to make further improvements of their data architecture and IT infrastructure.
    - More banks obtained the "largely compliant" or "fully compliant" ratings for all principles. Another positive aspect is that no bank attracted the lowest rating for any of the principles. Banks made substantial progress in implementing Principle 1 and 2.
    - No bank was assessed as "fully compliant" with all the principles in the 2019 assessment.
- **Key observations by supervisors**. The assessment reflects that, among others:
    - There has been notable improvements in banks' overarching governance, risk data aggregation capabilities and reporting practices (e.g. banks have established enterprise data strategies and data management frameworks).
    - The aggregation processes of some banks are still not appropriate, in terms of their current capabilities in relation to their size, complexity and activities.
    - Banks continue to experience difficulties in implementing the principles across an entire banking group and in managing the interdependencies between RDA&RR programmes and other bank-wide strategic projects (e.g. the complexity and interdependence of projects to address IT legacy systems).
    - Supervisors have applied a range of assessment techniques (e.g. thematic reviews, fire drills) which focus on banks' implementation of the principles.
- **Adoption of the proportionality concept**. Banks are responsible for defining the scope of their compliance with the principles and for ensuring that their implementation remains comprehensive and aligned with their business activities, bearing in mind that proportionality concept should not be applied in a way that undermines the effectiveness of their risk management and decision-making processes, as long as the aim of proportionality is to reflect the relative differences in risk profiles across banks.
- **Key recommendations**. The BCBS proposes three new recommendations:
    - Banks should monitor their efforts to implement the principles and make appropriate modifications to governance, IT infrastructure, and data aggregation and reporting capabilities as risks, activities and technologies evolve.
    - Banks should promptly and appropriately address weaknesses as well as review and update the principles' implementation roadmaps.
    - Supervisors should communicate to the banks any changes in regulations or supervisory focus.

3. Next steps

- The BCBS will continue to monitor G-SIBs' progress in adopting the principles.
- Most banks expect to have implemented the principles fully or in large part by the **end of 2020**.

20/04/2020

- **BCBS - Basel III Monitoring Report**
- **EBA Report on Basel III Monitoring**
- **EBA Report on Liquidity Measures**
- **EBA updates 2019 list of Other Systemically Important Institutions (O-SIIs)**

1. Context

In 2016, the BCBS published an updated standard for the regulatory capital treatment of securitisation exposures for simple, transparent and comparable (STC) securitisations. In the same year, the standard on minimum capital requirements for market risk (FRTB) was also published, and it has been recently revised in January 2019. Furthermore, in December 2017, the BCBS published the final set of revisions to the Basel III framework addressing undue variability in risk-weighted assets (RWAs) calculations and amending, credit risk calculation methods (SA and IRB), credit valuation adjustment (CVA), calculation method for operational risk (SMA) which replaces the previous ones, and establishes an output floor. It also modifies the exposure measure of the leverage ratio (LR) and introduces an additional buffer on this ratio for global systemically important banks (G-SIBs).

In this context, the BCBS has published the results of its latest **Basel III monitoring** report which sets out the impact of the finalisation of the Basel III reforms, and for the first time, it also reflects the finalisation of the market risk framework published in January 2019. In parallel with this report, the EBA has issued a **Report on its Basel III monitoring exercise** which includes a preliminary assessment of the impact of the Basel reform package on EU banks, assuming its full implementation.

Along with this document, the EBA has also published a **Report on liquidity measures** that monitors and evaluates the liquidity coverage requirements currently in place in the EU, and the updated **2019 list of Other Systemically Important Institutions (O-SIIs)**.

2. Main points

BCBS - Basel III Monitoring Report

- **Sample of banks**: 174 banks, including:
  - Group 1: 105 internationally active banks that have Tier 1 capital of more than €3 billion; and where 30 institutions have been designated as G-SIBs.
  - Group 2: 69 banks that have Tier 1 capital of less than €3 billion or are not internationally active (i.e. all other banks).
- **Reference date**: the results are based on data as of 30 June 2019. Therefore, the impact of COVID-19 in not taken into account.
- **General aspects**:
  - This Report does not take into account any transitional arrangements (i.e. phase-in of deductions and grandfathering).
  - This Report does not reflect any additional capital requirements under Pillar 2 of the Basel II framework, any higher loss absorbency requirements for domestic systemically important banks, nor does it reflect any countercyclical capital buffer requirements.
  - Changes in minimum required capital from fully phased-in final Basel III remain stable for large internationally active banks compared with end-2018, including the recently recalibrated market risk standards aside.

	31 December 2018			30 June 2019		
	Group 1	G-SIBs	Group 2	Group 1	G-SIBs	Group 2
Increase of the minimum requirement of Tier 1 MRC[1]	3.0%	3.4%	8.5%	2.8%	3.1%	7.5%
CET1 ratio (%)	12.2%	12.1%	13.0%	12.3%	12.2%	12.2%
Target capital shortfalls[2] (MM€)	24.7	22.8	3.8	20.3	18.3	3.4
TLAC shortfalls (MM€)	78.0	78.0	N/A	46.5	46.5	N/A

(1) Minimum required capital
(2) Tier 1 + Tier 2

2. Main points (cont.)

EBA Report on Basel III Monitoring

- **Sample of banks**: 105 banks form 19 European Economic Area (EEA) countries, including:
  - Group 1: 42 banks internationally active banks that have Tier 1 capital of more than €3 billion, of which 11 are G-SIIs.
  - Group 2: 63 banks that have Tier 1 capital of less than €3 billion or are not internationally active (i.e. all other banks).
- **Reference date**: the results are based on data as of 30 June 2019. Therefore, the impact of COVID-19 in not taken into account.
- **General aspects**:
  - This Report assesses the impact on EU banks of the final revisions of credit risk, operational risk, and leverage ratio frameworks, as well as of the introduction of the aggregate output floor. It also quantifies the impact of the new standards for market risk (FRTB) and credit valuation adjustments (CVA).
  - The impact is assessed on the assumption of the full implementation of the Basel reforms (i.e. 2028).
  - The Report presents the impact of the reforms in terms of changes in CET1, Tier 1 and additional Tier 1 MRC, comparing the fully implemented revised Basel III requirements with the fully phased-in CRR / CRD IV requirements.

Change in total T1 MRC (weighted average in %) Reduced estimation bias

Group	Credit Risk				Market risk	CVA	Op. risk	Output floor	Total risk-based	Revised	Total
	SA	IRB	Securit.	CCPs							
All banks	1.8	1.8	0.4	0.0	0.5	4.3	5	6.5	20.2	-4.1	16.1
1	1.5	1.5	0.4	0.0	0.6	4.6	5.5	6.8	20.8	-3.5	17.3
G-SIB	1.7	1.7	0.6	0.0	0.8	4.7	6.3	6.7	22.4	0.3	22.7
2	4	3.9	0	0	0.4	2.3	1.4	4.1	15.9	-7.7	8.1

Change in total T1 MRC (weighted average in %) Conservative estimation

Group	Credit Risk				Market risk	CVA	Op. risk	Output floor	Total risk-based	Revised	Total
	SA	IRB	Securit.	CCPs							
All banks	1.8	1.8	0.4	0.0	1.6	4.3	5	6.5	21.2	-4.2	17
1	1.5	1.5	0.4	0.0	1.7	4.6	5.5	6.8	22	-3.7	18.3
G-SIB	1.7	1.7	0.6	0.0	2.7	4.7	6.3	6.7	24.3	0.1	24.4
2	4	3.9	0	0	0.4	2.3	1.4	4.1	15.9	-7.7	8.1

EBA Report on Liquidity Measures

- **Objective**. This Report provide a three annual update on the monitoring of the liquidity coverage requirements. The analysis is based on the Common Reporting Framework (COREP) data of June 2019.
- **Main results**.
  - The weighted average liquidity coverage ratio (LCR) across banks is 147% and it has increased since December 2017.
  - In June 2019, there were only three banks with LCR levels below 100%, as they monetised their liquidity buffers during times of stress.
  - The average LCR level for the majority of the countries is within the 100-200% range, although there are some differences in terms of the dispersion of banks' LCR levels within countries.

List of Other Systematically Important Institution (O-SIIs) 2019

- **O-SIIs**. The EBA has updated the 2019 list of O-SIIs according to EBA Guidelines based on the size, importance, complexity, cross-border activities and interconnectedness of institutions. This list also reflects the additional capital buffers that the relevant authorities have set for the identified O-SIIs.

02/06/2020
Consultation Report on outsourcing principles

1. Context

In September 2005, IOSCO published a report on Principles on Outsourcing of Financial Services for Market Intermediaries which set out principles that are designed to assist market intermediaries in determining the steps they should take when considering outsourcing tasks. The report also contained some broad principles to assist regulators in addressing outsourcing in their regular risk reviews of entities. Subsequently, in July 2009, IOSCO published a report on Principles on Outsourcing by Markets to address the risks relevant to outsourcing and the use of third parties in the context of secondary trading in securities markets. However, in the last ten years, the trading landscape for firms and markets has changed considerably, and this has made necessary an update on this reports.

In this context, the IOSCO has published a **Consultation Report on outsourcing principles** which comprise a set of fundamental precepts and seven principles. The fundamental precepts cover issues such as the definition of outsourcing, the assessment of materiality and criticality, affiliates, sub-contracting and outsourcing on a cross-border basis. The seven principles set out expectations for regulated entities that outsource tasks, along with guidance for implementation.

2. Main points

- **Fundamental Precepts**:
  - Scope: the Principles on Outsourcing should apply to trading venues, market intermediaries and market participants acting on a proprietary basis, credit rating agencies, and financial market infrastructures that are regulated under the relevant legal regime of a jurisdiction.
  - Outsourcing definition: it is considered to be a business practice in which a regulated entity uses a service provider to perform tasks, functions, processes, services or activities that would, or could in principle, otherwise be undertaken by the regulated entity itself.
  - Responsibility for outsourcing: the regulated entity retains full responsibility, legal liability, and accountability to the regulator for all tasks that it may outsource to a service provider to the same extent it would if the service were provided in-house.
  - Potential benefits of outsourcing: it permits financial entities to obtain necessary expertise at a lower cost, it helps automate and speed up tasks or it provides flexibility to the business models of regulated entities, among others.
  - Potential risks and challenges:
    - **Lack control over some outsourced tasks**.
    - An increase of the number of **cyber incidents and data leaks**.
    - **Operational disruptions** to the services.
    - An increase of the **concentration in the number and/or materiality of the services** that are outsourced.
    - The **integrity and effectiveness** of financial services regulatory and **supervisory regimes** and systems.
  - Assessment of materiality and critically: although the assessment of what is material or critical is often subjective, some factors should be considered by the regulated entity, but not limited to the: potential negative impacts on investor protection or directly on clients; financial, reputational, and operational impact on the regulated entity of the failure of a service provider; or the impact on an entity's control functions and risk management; among others.
  - Affiliates: these Principles apply regardless of whether outsourced tasks are performed by an affiliated entity of a corporate group or by an entity that is external to the corporate group.
  - Outsourcing on a cross-border basis: additional risks arising from outsourcing on a cross-border basis which may require attention during the due diligence process and contract negotiations:
    - Service providers may use the **services of a sub-contractor to perform the outsourced tasks**, but the regulated entity should ensure: (i) sub-contracting is not permissible without its prior approval; (ii) the ability of the sub-contractor to continuously perform the services; (iii) accessing data maintained by the sub-contractor.
    - Where multiple regulated entities use a **common service provider**, operational risks are correspondingly concentrated, and may increase to the extent they present a systemic risk.

2. Main points (cont.)

- **Principles**. The seven principles set out expectations for regulated entities that outsource tasks, along with guidance for implementation. They comprise that the regulated entity should:
  - Principle 1: conduct suitable due diligence processes in selecting an appropriate service provider and in monitoring its ongoing performance.
  - Principle 2: enter into a legally binding written contract with each service provider, the nature and detail of which should be appropriate to the materiality or criticality of the outsourced task to the business of the regulated entity.
  - Principle 3: take appropriate steps to ensure both the regulated entity and any service provider establish procedures and controls to protect the regulated entity's proprietary and client-related information and software and to ensure a continuity of service to the regulated entity, including a plan for disaster recovery with periodic testing of backup facilities.
  - Principle 4: take appropriate steps to ensure that service providers protect confidential information and data related to the regulated entity and its clients, from intentional or inadvertent unauthorised disclosure to third parties.
  - Principle 5: be aware of the risks posed, and should manage them effectively, where it is dependent on a single service provider for material or critical outsourced tasks or where it is aware that one service provider provides material or critical outsourcing services to multiple regulated entities including itself.
  - Principle 6: take appropriate steps to ensure that its regulator, its auditors, and itself are able to obtain promptly, upon request, information concerning outsourced tasks that is relevant to contractual compliance and/or regulatory oversight including, as necessary, access to the data, IT systems, premises and personnel of service providers relating to the outsourced tasks.
  - Principle 7: include written provisions relating to the termination of outsourced tasks in its contract with service providers and ensure that it maintains appropriate exit strategies.

3. Next steps

- The deadline for submitting comments is the **1st of October 2020**.

04/06/2020
Statement on Importance of Disclosure about COVID-19

1. Context

The outbreak of COVID-19 has dramatically affected global economic activity since early 2020 and has required the mitigation measures to be taken such as the liquidity facilities for firms (e.g. loan payment deferral, public guarantees schemes, etc.). In response to the current uncertainty resulting from the COVID-19 pandemic, the International Organization of Securities Commissions (IOSCO) remain fully committed to the development, consistent application and enforcement of high quality reporting standards and disclosure regulations, which are of critical importance to the proper functioning of the capital markets.

In this context, the IOSCO has published a **Statement on Importance of Disclosure about COVID-19** which seeks to ensure that investors and other stakeholders have the timely and high quality financial information that they need, along with transparent and entity-specific disclosures, including information about the impact of COVID-19 on the issuer's operating performance, financial position, liquidity, and future prospects.

2. Main points

- **Impact on amounts recognized, measured and presented in the financial statements**. IOSCO reminds issuers of their responsibility to use the best available information in making well-reasoned and supported judgements and estimates that take in account the impacts of the COVID-19 pandemic, the guidance issued by standard setters and the government relief and support measures available in each jurisdiction, even if is difficult to prepare these financial statements in the evolving and uncertain environment that we are in. In addition, IOSCO expects that the issuers utilize appropriate skills and competencies in areas such as fair value measurement and impairment assessments and consider to hire the necessary experts in order to comply correctly with their obligations.
- **Importance of transparent and complete disclosures**. IOSCO notes that it is important that financial reporting include disclosures that provide an adequate level of transparency and is entity-specific regarding uncertainties inherent in judgments and estimates. IOSCO stablishes that issuers should not limit disclosures to boilerplate discussion on COVID-19 itself, but to explain:
  - How COVID-19 impacted and/or is expected to impact the financial performance, financial position and cash flows of the issuer.
  - How the strategy and targets of the issuers have been modified to address the effects of COVID-19.
  - Measures taken to address and mitigate the impacts of the pandemic on the issuer.

  Furthermore, the areas that may involve significant judgements and estimates in light of COVID-19, and thus need greater transparency in disclosures are:
  - Assessment of the impact of COVID-19 on the historical financial information and nonfinancial information.
  - Going concern assessments, including management's plans to mitigate the uncertainty.
  - Significant judgements and estimates regarding the assessment of goodwill and other nonfinancial assets for impairment, the fair value measurements using significant unobservable inputs and the impairment of financial assets including application of accounting for Expected Credit Loss (ECL).
  - Forward looking information may be needed in these areas to project future cash flow or earnings scenario analysis.
  - Subsequent events.
- **Non-GAAP financial measures**. IOSCO reminds issuers to be mindful of the elements of reliable and informative non-GAAP financial measures that are not potentially misleading so, given the uncertainty in the current environment, issuers should carefully evaluate the appropriateness of an adjustment or alternative profit measure. It could be misleading to describe an adjustment as COVID-19 related, if management does not explain how an adjusted amount was specifically associated with COVID-19 (e.g. characterizing an impairment as COVID-19 related despite their indicators of impairment existed prior to the pandemic or because it was based on hypothetical sales and/or profit measures)

2. Main points (cont.)

- **Interim reports**. Issuers also are reminded that interim financial reporting is intended to provide an update focusing on changes in the entity's financial position and results of operations since the last annual period. Although these interim reports usually contain fewer required disclosures than annual reports, but it will be relevant to include more detailed disclosure as well as their material effect on the issuer in the first interim report to be published since the COVID-19 pandemic.
- **Implications for the annual audit**. Given the uncertainties resulting from the COVID-19 pandemic, investors and other stakeholders may rely even more than normal on the opinion and additional information provided by auditors. IOSCO reminds external auditors of their responsibility to communicate with management and audit committees and to evaluate the adequacy and transparency of disclosures provided in the financial statements.
- **Filing deadlines extended in many jurisdictions**. The regulators in some jurisdictions have provided an accommodation that allows issuers an extended period to prepare and issue their financial information. When considering such extensions, issuers should balance the needs of investors with the responsibility for providing timely and comprehensive financial information that includes reasonable and supportable judgements, and on the other hand investors and other stakeholders are expected to pay more attention to issuers' situation. Finally, issuers should consider informing the market about the reasons for the delay, how the matters will be addressed and the expected reporting date.
- **IOSCO interaction with other stakeholders**. IOSCO will continue to collaborate with international standard setting bodies as well as other regulators, and remain fully committed to supporting the provision of high quality financial information to investors especially in the time of uncertainty resulting from the disruption of the COVID-19.

03/04/2020
Accounting for expected credit losses applying IFRS 9 Financial Instruments in the light of current uncertainty resulting from the covid-19 pandemic

1. Context

In January 2018 the international accounting standard IFRS 9 entered into force and introduced changes in credit loss provisioning by moving from an incurred loss model (under IAS 39) to an expected credit loss (ECL). IFRS 9 requires that lifetime ECLs be recognised when there is a significant increase in credit risk (SICR) on a financial instrument. However, it does not set bright lines or a mechanistic approach to determining when lifetime losses are required to be recognised. Both the assessment of SICRs and the measurement of ECLs are required to be based on reasonable and supportable information that is available to an entity without undue cost or effort. The pandemic situation caused by COVID-19 has led to an abrupt increase in uncertainty that can threaten both economic growth and financial stability, and has also resulted in issues regarding the application of IFRS 9. In the EU, for example, the European Central Bank (ECB) has recommended banks to avoid pro-cyclical assumptions in their models for determining provisions under IFRS 9 and that those who have not done this so far opt for the IFRS 9 transitional rules.

In this context, the IFRS has published a guidance document on **accounting for expected credit losses applying IFRS 9 Financial Instruments in the light of current uncertainty resulting from the COVID-19 pandemic**.

2. Main points

- **Entities should not continue to apply their existing ECL methodology mechanically**. Although current circumstances are difficult and create high levels of uncertainty, if ECL estimates are based on reasonable and supportable information and IFRS 9 is not applied mechanistically, useful information can be provided about ECLs.
- **Effects of COVID-19 and the government measures**. Entities are required to develop estimates based on the best available information about past events, current conditions and forecasts of economic conditions. In assessing forecast conditions, consideration should be given both to the effects of covid-19 and the significant government support measures being undertaken.
- **Macroeconomic scenarios**. It is likely to be difficult at this time to incorporate the specific effects of COVID-19 and government support measures on a reasonable and supportable basis. However, changes in economic conditions should be reflected in macroeconomic scenarios applied by entities and in their weightings. If the effects of COVID-19 cannot be reflected in models, post-model overlays or adjustments will need to be considered. The environment is subject to rapid change and updated facts and circumstances should continue to be monitored as new information becomes available.

3. Next steps

- The IFRS **will continue to collaborate** with prudential and securities regulators regarding the application of IFRS 9 in the context of the COVID-19 pandemic.

20/04/2020

- **Phase 2 of the Interest Rate Benchmark Reform. Proposed amendments to IFRS 9, IAS 39, IFRS 7, IFRS 4 and IFRS 16**
- **Snapshot: Interest Rate Benchmark Reform – Phase 2**

1. Context

In September 2019 the IASB published Phase 1 of the Interest Rate Benchmark Reform which amended IFRS 9, IAS 39 and IFRS 7. The amendments proposed on Phase 1 provide temporary exceptions to specific hedge accounting requirements, and as result, entities would apply those specific hedge accounting requirements assuming the interest rate benchmark on which the hedged risk and/or cash flows of the hedged item or of the hedging instrument are based is not altered as a result of interest rate benchmark reform.

In this context, the IASB has published the **Phase 2 of the Interest Rate Benchmark Reform, with proposed amendments to IFRS 9, IAS 39, IFRS 7, IFRS 4 and IFRS 16,** with the aim to assist entities with providing useful information to users of financial statements and to support preparers in applying IFRS Standards when changes are made to contractual cash flows or hedging relationships, as a result of the transition to alternative benchmark rates. In particular, this Exposure Draft proposes amendments to specific requirements relating to: i) modifications of financial assets and financial liabilities, including lease liabilities; ii) hedge accounting; iii) disclosures; and iv) risk components.

2. Main points

- **Modifications of financial assets and financial liabilities and lease liabilities**.
    - Main issue: applying IFRS 9, a company assesses whether a modification of a financial asset or financial liability results in derecognition of the financial asset or financial liability. If it does not result in derecognition, a modification gain or loss is determined by recalculating the carrying amount of the financial instrument using the original effective interest rate (EIR) to discount the modified cash flows.
    - Proposal of the IASB:
        - A **practical expedient for modifications** required by the reform, a company would not derecognize financial asset or financial liability. Modifications required by the reform would be accounted for by updating the EIR to reflect, for example, the change in an investment rate benchmark from IBOR to an alternative benchmark rate. Then, it would separately assess modifications not required by the reform to determine if they result in derecognition of a financial instrument.
        - Amendments to **IFRS 4** and **IFRS 16** to require insurers and lessees, respectively, to use the practical expedient or a similar required by the reform.
- **Hedge accounting**.
    - Main issue: generally, under both IFRS 9 and IAS 39, amending the formal designation of a hedging relationship would result in discontinuing the hedging relationship but discontinuing hedge accounting solely due to changes required by the reform, but this would not reflect the economic effects of the changes and would not provide useful information to investors.
    - Proposal of the IASB:
        - Amending **hedge accounting requirements** so that changes would not result in discontinuation of hedge accounting, and further, its amended hedging relationships would still be required to meet all other qualifying criteria.
        - For the purposes of the **IAS 39 retrospective assessment** of hedge effectiveness, requiring a company to reset the cumulative fair value changes of the hedged item and hedging instrument to zero immediately after ceasing to apply the Phase 1 relief.
- **Risk components**.
    - Main issue: a company may designate an item in its entirety or a component of an item as a hedged item in a hedging relationship. Both, IFRS 9 and IAS 39 require a risk component (or a portion) to be separately identifiable to be eligible for hedge accounting. When hedging relationships are amended as a result of the reform or new hedging relationships are designated, an alternative benchmark rate designated as a non-contractually specified risk component may not meet the "separately identifiable requirement".
    - Proposal of the IASB: an alternative benchmark rate be deemed a separately identifiable risk component if a company reasonably expects it to meet the separately identifiable requirement within 24 months of the date it is designated as a non-contractually specified risk component.

2. Main points (cont.)

- **Disclosures**.
  - Main issue: although companies are required to provide some information about the reform when applying disclosure requirements such as those in IFRS 7, some useful information may not be captured by current disclosure requirements.
  - Proposal of the IASB: requiring companies to make additional disclosures in its financial statements so that investors can better understand the reform's effects on that company.

3. Next steps

- Comments to this proposal should be submitted by **25 May 2020**.
- These amendments would apply for an annual reporting periods beginning on or after **1 January 2021**, though earlier application would be permitted.

04/05/2020
Expousure draft COVID-19 Related Rent Concessions Proposed amendment to IFRS 16

1. Context

IFRS 16 Leases contains requirements that specify the accounting for changes in lease payments, including rent concessions. This standard contains specific requirements for some changes in lease payments to determinate if they pose a lease modification and, as a result, it requires an reassessment regarding IFRS 16. The COVID-19 disruption may cause an increase of applying potentially large volume of rent concessions. Consequently, lessees have identified potential difficulties in the current environment in assessing whether COVID-19 related rent concessions are lease modifications and, for those that are, applying the required accounting.

In this context, the IASB has published the **Exposure draft of COVID-19-Related Rent Concessions Proposed amendment to IFRS 16** with the aim to provide lessees of a lease agreement with practical relief during the covid-19 pandemic while enabling them to continue providing useful information about their leases to users of financial statements.

2. Main points

- **Scope of application**. The proposal in this Exposure Draft would affect lessees of the lease agreement that are granted rent concessions as a direct consequence of the COVID-19 pandemic during 2020, and users of these lessees' financial statements. It does not apply for lessors.
- **Rent concessions accounting**. The Exposure draft permits lessees, as a practical expedient, account for those rent concessions as if they were not lease modifications. However, the lessee could apply the practical expedient, as long as all the following requirements was complied:
    - Rent concessions must occur as a direct consequence of the COVID-19 pandemic.
    - Changes in lease payments results in revised consideration for the lease that is substantially the same as, or less than, the consideration for the lease immediately preceding the change.
    - Reductions in lease payments affects only payments originally due in 2020.
    - There is no substantive change to other terms and conditions of the lease.
- **Modifications of financial statements**. If a lessee grants a rent concessions is required to apply the disclosure requirements and reflect the changes in the financial statements about the leasing activities. There are three types of change:
    - Forgiveness or waiver of lease payments and adjusting the financial statements derecognising the part of the lease liability that has been extinguished by the forgiveness or waiver of lease payments.
    - Change on the timing payment by reducing payments in one period but proportionally increases payments in another. This does not extinguish the lessee's lease liability or change the consideration for the lease.
    - Some COVID-19 related rent concessions reduce lease payments, incorporating both a forgiveness of payments and a change in the timing of payments.
- **Transition and effective date**. The draft amendments to IFRS 16 propose that a lessee would apply the amendment:
    - For annual reporting periods beginning on or after 1 June 2020. Earlier application is permitted, including in financial statements not yet authorised for issue at the date the amendment is issued.
    - Retrospectively, recognising the cumulative effect of initially applying the amendment as an adjustment to the opening balance of retained earnings (or other component of equity, as appropriate) at the beginning of the annual reporting period in which the lessee first applies the amendment.

3. Next steps

- It has opened a term to submit comments about this draft until **8 May 2020**.
- The IASB plans to complete any resulting amendment to IFRS 16 by the end of **May 2020**.

04/05/2020
Decision to launch a New Short-Term Liquidity Line to Enhance The Adequacy Of The Global Financial Safety Net

1. Context

In 2017, the IMF proposed the creation of a new facility to provide liquidity support to the IMF's membership, called the Short-term Liquidity Swap (SLS). The SLS was designed as a response to a critical gap highlighted by the Fund's work on the Adequacy of the Global Financial Safety Net (GFSN), particularly the lack of predictable and reliable funding for many countries, including systemic and gatekeeper countries. While the SLS did not garner the required support to be adopted in 2017, many IMF Directors noted that this type of facility could be an important addition to the IMF lending toolkit, and that several of the proposed features could act as a blueprint for future IMF instruments.

In the context of intensified demand for liquidity and heightened global uncertainty due to the COVID-19 outbreak, the IMF has published a decision to create a **New Short-Term Liquidity Line to Enhance The Adequacy Of The Global Financial Safety Net**, based on the key features of the 2017 blueprint as a consequence of the need to move quickly in response to the COVID-19 crisis.

2. Main points

- **Objective and eligibility to access the SLL**. The SLL aims to reduce the impact of liquidity events and minimize the risk of shocks evolving into deeper crises and generating spillovers to other countries. The SLL is a special facility which provides liquidity support for members facing potential short-term moderate balance of payments difficulties, defining these as:
    - Only of a potential nature, reflected in pressure on the capital account and the member's reserves.
    - Resulting from volatility in international capital markets.
    - Reasonably expected to be limited in scale and to require, at most, fine-tuning of monetary and exchange rate policies.

  According to be eligible, the member shall:
    - Has very strong economic fundamentals and institutional policy frameworks.
    - Is implementing and has a sustained track record of implementing very strong policies.
    - Remains committed to maintaining such policies in the future.
- **Main characteristics of the SLL arrangements**:
    - May be approved in an amount of <u>up to 145 percent of the member's quota</u>, with this limit being cumulative for total credit outstanding under the SLL.
    - Shall be approved for a period of <u>12 months</u> and shall expire only upon the earlier of:
        - The **expiration of the approved period** of the arrangement.
        - The **cancellation** of the SLL arrangement by the member.

  A member shall be obliged to repurchase any amounts purchased under an SLL arrangement no later than <u>12 months after the date of the purchase of such amounts</u>.
- **SLL process**. The proposed process for the approval and use of an SLL arrangement largely follows the process for Flexible Credit Line (FCL) arrangements with two notable differences: the extension of an "offer" by the Fund to those members that qualify, and the absence of a prior informal Board meeting. The main steps of SLL process are:
    - Initial <u>confidential consultation</u> and assessment of qualification.
    - Preparation of the Board paper and formal <u>IMF meeting to consider the case for an offer</u> and conditional approval of an arrangement.
    - <u>Communication of the Board's conditional approval of the arrangement to the authorities</u> who must respond within two weeks from the date of the conditional approval.
    - Once the arrangement is approved and becomes effective, members could make <u>one or multiple purchases during the period of the SLL arrangement</u> subject to the approved access level.

3. Next steps

- The SLL will be **reviewed in 2022** as part of the regular review of the FCL and Precautionary and Liquidity Line (PLL).
- The SLL shall **terminate seven years after the date of adoption of this decision**, with the possibility of an extension regarding the Executive Board agreement by end-2025.

01/06/2020
MREL Policy under the Banking Package

1. Context

In October 2019, the EP and the Council published in the OJEU a reform package of the banking system, which introduces amendments included to the Capital Requirement Directive (CRD IV), the Capital Requirement Regulation (CRR), the Bank Recovery and Resolution Directive (BRRD), the Single Resolution Mechanism Regulation (SRMR), and the Regulation on EMIR.

In this context, the SRB has published **Minimum Requirements for Own Funds and Eligible Liabilities (MREL) Policy under the Banking Package** with aim of the adaptation of MREL requirements to the new framework to ensure that banks maintain a minimum amount of equity and debt to support an effective resolution in line with the new banking package (BRRD2/SRMR2/CRR2/CRDV). The SRB's provisions aim to ensure that MREL is set in the context of fully feasible and credible resolution plans, for all types of banks and to promote a level playing field across banks including for Banking Union subsidiaries of non-banking Union (EU) banks.

2. Main points

- **Calibration**. The SRB is modifying and extending its approach to MREL calibration in accordance with the new framework.
    - The Banking Package introduced the total loss-absorbing capacity (TLAC) minimum requirement for global systemically important institutions (GSIIs), from the global standards set by the Financial Stability Board (FSB), and adapted the current MREL framework accordingly.
    - Although the initial implementation of the leverage ratio was planned for 1 January 2022, the Basel Committee on Banking Supervision (BCBS) has postponed it until 2023 as a measure of flexibility due to the impact of COVID-19. From this date, CRR will require institutions to comply with a prudential leverage ratio requirement at all times, acting as a backstop to risk-based own funds requirements and the revised BRRD introduces an MREL requirement based on the Leverage Ratio Exposure Measure (LRE) to complement the risk-based MREL expressed as a percentage of the total risk exposure amount (TREA).
    - MREL is composed of a loss-absorption amount (LAA) and a recapitalisation amount (RCA). New provisions define conditions under which the RCA may be adjusted upwards or downwards.
    - MREL for banking groups with a Multiple Point of Entry (MPE) approach to resolution has been further refined. If MPE is the preferred resolution strategy, the MRELs for the different resolution groups (i.e. the points of entry) should be set in such a way that each can be resolved independently without causing immediate shortfalls in other resolution groups.
- **Subordination for Resolution entities**. The SRB sets subordination requirements in accordance with the new framework, as well as defining a methodology to determine and quantify no creditor worse off (NCWO) risk. Specifically:
    - Pillar 1 Banks includes: (i) resolution entities of G-SIIs and material subsidiaries of non-EU G-SIIs; (ii) banks with total assets exceeding EUR 100bn at the level of the resolution group (Top Tier Banks); and (iii) other banks chosen by the respective national resolution authority (NRA) which are not Top Tier Banks but are assessed as likely to pose a systemic risk in the event of failure (Other Pillar 1 Banks).
    - Pillar 1 Banks' resolution authority must ensure that the subordinated MREL resources of Pillar 1 Banks are equal to at least 8% of total liabilities and own funds (TLOF). The resolution authority may reduce or increase this target level of minimum subordination for Pillar 1 Banks on a case by case basis and subject to conditions. When setting the subordinated component of the MREL ensuring the 8% TLOF target, the resolution authority shall count CET1 eligible for capital buffers towards the 8% target.
    - Non Pillar 1 banks will be subject to a subordination requirement only upon the decision of the resolution authority to avoid a breach of the NCWO principle, following a bank-specific assessment carried out as part of resolution planning.
    - The SRB has developed a valuation-based tool to quantify possible NCWO risk. Assessing the need for subordination depends on projections of the size and distribution of losses for different classes of creditors under different strategies and conditions. The quantitative tool provides such projections by combining accounting and historical market data.

2. Main points (cont.)

- **Internal MREL for non-resolution entities**. The SRB will progressively expand the scope of non-resolution entities for which it will adopt internal MREL decisions. Coverage will encompass entities providing critical functions and/or those meeting the 4% threshold of the resolution group's total risk exposure amount, or leverage exposure, or total operating income (the previous threshold was 5%). The SRB may waive subsidiary institutions qualifying as non-resolution entities from internal MREL following the next criteria:
    - If the subsidiary and its resolution entity (or its parent undertaking) are established in the same Member State and are part of the same resolution group.
    - If the resolution entity (or its parent undertaking) complies with the requirement referred in SRMR (i.e. consolidated external MREL on a consolidated basis at the level of the resolution group) or respectively MREL at sub-consolidated level.
    - If there is no current or foreseen material, practical, or legal impediment to the transfer of funds by the resolution entity to the subsidiary, in particular when resolution action is taken in respect of the resolution entity or the parent undertaking.

    The SRMR grants the SRB the possibility to permit the use of guarantees to meet the internal MREL within the Member State of the resolution entity.
- **MREL for cooperation groups**. The SRB sets out minimum conditions to authorise certain types of cooperative networks to use eligible liabilities of associated entities other than the resolution entity to comply with the external MREL, as well as minimum conditions to waive the internal MREL of the legal entities that are part of the cooperative network. The specific criteria for the MREL treatment of cooperative networks are:
    - Own funds issued by any of the entities are capable of absorbing losses to restore the solvency of any of the entities of the resolution group.
    - Eligible liabilities issued by any of the network entities would be subject to bail-in, under the resolution strategy relevant for MREL setting, in case any of these entities reaches the point of failing or likely to fail (FOLTF).
    - There is no material risk of breaching the NCWO principle with a clear ranking on distribution of losses within the group. In particular, NCWO should be respected when applying the bail-in tool on a pro-rata basis to network eligible liabilities that are part of the same class in the creditor hierarchy.
    - Appropriate communication to investors investing in MREL eligible debt instruments and information about the potential bail-in of such instruments for the recapitalisation of any of the entities of the network has taken place.
    - Determination of the FOLTF criteria is on a joint basis: the SRB will consider the likelihood of a FOLTF criteria determination being made at the level of all affiliated entities of the network and the central body, either simultaneously or as a whole at group level, taking into account as well the possible assessment of the conditions for resolution for cooperative networks under BRRD that are part of the same resolution group.
    - Regarding the waiver from individual targets (internal MREL), the SRMR introduces six criteria for granting affiliated credit institutions, or the central body itself, this waiver with flexibility offered to the SRB when assessing the criteria on any impediment to the prompt transfer of own funds or repayment of liabilities. This assessment is based on an analysis of the bilateral relation between the central body and the respective affiliated institution.
- **Eligibility of liabilities is issued under the law of a third country**. Requires that the legal system of that country recognises that an EU resolution authority can modify those liabilities. In the absence of a cross-border recognition framework, recognition might be achieved through prior contractual acceptance by creditors that their contractual claims may be cancelled or modified in resolution. In line with BRRD requires institutions to include a contractual clause in contracts by which the creditor or party to the agreement creating the liability recognises that the liability may be subject to the write-down and conversion powers of an EU resolution authority.

3. Next steps

- The deadline of meeting external and internal MREL, including subordination requirements, is in **1 January 2024**.
- From now until 1 January 2024, two intermediate targets will be established: a first binding intermediate target to be met by **1 January 2022** and a second intermediate target of an informative nature for **1 January 2023**; both to ensure the compliance of the Planned minimum requirements which are defined for each 12-month period.

11/05/2020

Coronavirus response: Banking Package to facilitate bank lending- Supporting households and businesses in the EU

1. Context

The disruption of COVID-19 has caused the adoption of measures for local and supranational agencies to mitigate the economic impact from this pandemic. In order to achieve this goal, Europa has posed measures such as a new temporary asset purchase programme of private and public sector securities (called the Pandemic Emergency Purchase Programme) or supervisory flexibility regarding the treatment of non-performing loans (NPLs) from European Central Bank (ECB) and the explanation based on how to make best use of the flexibility provided for in the existing prudential and accounting regulatory framework.

In this context, the EC has published a **banking package in response to coronavirus, to facilitate bank lending and supporting households and businesses in the EU**. This package is intended to encourage banks to make full use of the flexibility embedded in the EU's prudential and accounting framework, so that banks can fully support citizens and companies during this pandemic by providing funding.

2. Main points

- **Flexibility in EU's banking rules**. This document states that some of the prudential and accounting rules can be used more flexibly during the pandemic so that banks can focus on lending to households and companies. In particular, the areas of flexibility in the EU's regulatory framework include:
  - The rules on how banks assess the risk that a borrower will not repay a loan in a sudden economic crisis, such as the coronavirus pandemic, and the effect that has on the amount of money the bank needs to set aside for any possible losses.
  - The prudential rules on the classification of non-performing loans (NPLs) in the context where relief measures such as guarantee schemes and moratoria have been provided either by Member States or by banks.
  - The accounting treatment of delays in the repayment of loans.

  In addition, this IC clarifies rules regarding:
  - IFRS 9 flexibility. This document clarifies the flexibility available in IFRS 9 and explains how that can maintain the flow of liquidity to EU households and businesses:
    - **The Expected Credit Loss (ECL) approach under IFRS 9**. If households or businesses are temporary unable to pay back their loans because of the coronavirus pandemic, banks do not have to automatically increase their ECL provisions. IFRS 9 leaves it to banks to use their own judgment when determining if expected credit losses are required to be recognised.
    - **The Assessment of a "Significant Increase in Credit Risk" (SICR)** should be based on the remaining lifetime of a loan and not just on the sudden increase in the probability of default caused by the coronavirus pandemic.
    - **Use of moratoria and SICR**. Loans should not automatically be considered to have suffered a SICR simply because they have become subject to private or statutory moratoria.
  - NPLs. This IC clarifies how the prudential rules on the classification of NPLs can accommodate the flexibility measures such as more favourable treatment of publicly guaranteed loans or payment moratoria.
  - Digital payments. The EC encourages banks to promote digital banking, while at the same time, remaining alert and continuing to fight financial crime, which is likely to increase in the context of the pandemic.

2. Main points (cont.)

- **Legislative proposals**. In order to maximize the ability of EU banks to lend during the Coronavirus pandemic, while also ensuring their continued resilience, the EC has proposed exceptional temporary regulation changes. In this regard, the following changes to Capital Requirements Regulation (CRR) have been proposed:
    - Basel III: transitional arrangements for mitigating the impact of IFRS 9 provisions on regulatory capital. To mitigate the potential negative impact of the potential increase in the ECL according to IFRS 9 application, the EC has proposed an extension of the current transitional arrangements in the CRR by two years, to allow banks to add back to their regulatory capital any increase in new expected credit losses provisions that they recognise in 2020 and 2021 for their financial assets, which have not defaulted. To ensure that the additional relief is related to the exceptional circumstances of the Coronavirus pandemic, only provisions incurred as of 1 January 2020 would be eligible.
    - Basel III: date of application of the leverage ratio buffer. The date of application of the new leverage ratio buffer is proposed to be deferred by one year to 1 January 2023.
    - More favourable treatment of publicly guaranteed loans under the NPL prudential backstop. It is proposed to temporarily extend the preferential treatment of NPL guaranteed by official export credit agencies to NPLs guaranteed by the public sector.
    - Changes in the calculation of leverage ratio. CRR provides an offsetting mechanism to temporarily exclude central bank reserves from a bank's leverage ratio calculation in exceptional circumstances. The proposal is to modify the offsetting mechanism enabling banks to calculate adjusted leverage ratio only one at the moment which the discretion is exercised .The aim is not force banks to deleverage by selling assets or reducing the level of lending to the real economy.
    - Finally, it is brought forward the proposed date of application of: the exemption of certain software assets from capital deductions, the specific treatment envisaged for certain loans backed by pensions or salaries, and the revised small and medium enterprises (SME) supporting factor and the new infrastructure supporting factor.

3. Next steps

- The EC **will monitor the implementation** of the IC in close cooperation with the ECB-SSM and national competent authorities (NCAs).
- The legislative proposals will be discussed by the European Parliament and the Council, hoping to be adopted in June due to the urgency in mitigation of COVID-19 effects.

27/04/2020
First reading position on the taxonomy of sustainable activities

1. Context

In March 2018, the European Commission (EC) published its Action Plan on Financing Sustainable Growth which set out a comprehensive strategy to further connect finance with sustainability. In Action 2 of the Action Plan, the EC committed to create standards and labels for green financial products. In June 2018, the EC set up the Technical Expert Group on sustainable finance (TEG) to assist it in developing the EU taxonomy to determine whether an economic activity is environmentally sustainable; an EU Green Bond Standard (GBS); methodologies for EU climate benchmarks and disclosures for benchmarks; and guidance to improve corporate disclosure of climate-related information.

In this context, the Council has published the **First reading position on the taxonomy of sustainable activities** which containts a common EU-wide classification system which will provide businesses and investors with harmonised criteria to identify economic activities that are considered environmentally sustainable in order to transition to a low-carbon, resilient and resource-efficient economy.

2. Main points

- **Scope of application**. The taxonomy will be applicable to:
    - Measures adopted by EU and Member States that set out requirements for financial market participants or issuers in respect of financial products or corporate bonds that are made available as environmentally sustainable.
    - Financial market participants offering financial products in the EU.
    - Large companies who are already required to provide a non-financial statement.
- **Environmental objectives**. The EU Taxonomy sets as environmental objectives:
    - Climate change mitigation.
    - Climate change adaptation.
    - The sustainable use and protection of water and marine resources.
    - The transition to a circular economy.
    - Pollution prevention and control.
    - The protection and restoration of biodiversity and ecosystems.
- **Environmentally sustainable economic activities**.
    - Criteria. For the purposes of establishing the degree to which an investment is environmentally sustainable, an economic activity shall qualify as environmentally sustainable where that economic activity:
        - **Contributes substantially** to one or more of the environmental objectives.
        - **Does not significantly harm** any of the environmental objectives.
        - Is carried out in compliance with the **minimum safeguards** set out in the OECD guidelines and the un guiding principles.
        - Complies with **technical screening criteria**.
    - Transparency regarding:
        - **Environmentally sustainable investments** in pre-contractual disclosures and in periodic reports.
        - **Financial products that promote environmental characteristics** in pre-contractual disclosures and in periodic reports.
        - **Other financial products** in pre-contractual disclosures and in periodic reports.
        - **Undertakings** in non-financial statements.

3. Next steps

- The taxonomy for climate change mitigation and climate change adaptation should be established by the **end of 2020** in order to ensure its full application by end of 2021.
- For the four other objectives, the taxonomy should be established by the **end of 2021** for application by the end of 2022.

EUROPEAN CENTRAL BANK
EUROSYSTEM

20/04/2020
Package of temporary collateral easing measures

1. Context

Since the beginning of March, various agencies at both the local and supranational levels have begun to issue measures to mitigate the possible impact that the COVID-19 could have on the economy. In Europe, the ECB has launched a new temporary asset purchase programme of private and public sector securities called the Pandemic Emergency Purchase Programme (PEPP) of €750 billion as well as an additional longer-term refinancing operations (LTROs), and it allow banks to temporarily operate below Pillar 2 Guidance (P2G), the capital conservation buffer (CCB) and the liquidity coverage ratio (LCR) requirement. Furthermore, the European Banking Authority (EBA) has decided to postpone the EU-wide stress test exercise to 2021 and it will carry out an additional EU-wide transparency exercise in 2020. In addition, the ECB has introduced supervisory flexibility regarding the treatment of non-performing loans (NPLs), recommended banks to avoid procyclical assumptions in their models to determine provisions on IFRS 9 and postpone some inspections.

In this context, the ECB has published a **package of temporary collateral easing measures** in order to mitigate the tightening of financial conditions across the euro area. These measures along with the previously taken support the provision of bank lending especially by easing the conditions at which credit claims are accepted as collateral. At the same time the Eurosystem is increasing its risk tolerance to support the provision of credit via its refinancing operations, particularly by lowering collateral valuation haircuts for all assets consistently.

2. Main points

- **Collateral measures**. The ECB decided on a set of collateral measures to facilitate an increase in bank funding against loans to corporates and households. This will be achieved by expanding the use of credit claims as collateral, in particular through the potential expansion of the additional credit claims (ACCs) frameworks. In this respect, the ECB decided to temporarily extend the ACC frameworks further by:
    - Accommodating the requirements on guarantees to include government and public sector guaranteed loans to corporates, SMEs and self-employed individuals and households in the ACC frameworks in order to also provide liquidity against loans benefiting from the new guarantee schemes adopted in euro area Member States as a response to the coronavirus pandemic.
    - Enlarging the scope of acceptable credit assessment systems used in the ACC frameworks (e.g. by easing the acceptance of banks' own credit assessments from internal rating-based systems that are approved by supervisors).
    - Reducing the ACC loan level reporting requirements to allow counterparties to benefit from the ACC frameworks even before the necessary reporting infrastructure is put in place.
- **Temporary measures**.
    - A lowering of the level of the non-uniform minimum size threshold for domestic credit claims to EUR 0 from EUR 25,000 previously to facilitate the mobilisation as collateral of loans from small corporate entities.
    - An increase, from 2.5% to 10%, in the maximum share of unsecured debt instruments issued by any single other banking group in a credit institution's collateral pool. This will enable counterparties to benefit from a larger share of such assets.
    - A waiver of the minimum credit quality requirement for marketable debt instruments issued by the Hellenic Republic for acceptance as collateral in Eurosystem credit operations.
- **Risk tolerance level**. The ECB decided to temporarily increase its risk tolerance level in credit operations through a general reduction of collateral valuation haircuts by a fixed factor of 20%. This adjustment aims to contribute to the collateral easing measures while maintaining a consistent degree of protection across collateral asset types, albeit at a temporarily lower level.
- **Haircuts**. The ECB decided to adjust the haircuts applied to non-marketable assets, both in the general collateral framework and for ACCs, by fine-tuning some of the haircut parameters. This adjustment, which is not linked to the duration of the PEPP, applies in addition to the temporary haircut reduction and thus further supports the collateral easing measures while maintaining adequate risk protection. This leads on average to a further haircut reduction of this type of collateral by around 20%.

3. Next steps

- These measures, except for the haircut adjustment applicable to non-marketable assets, are temporary for the duration of the pandemic crisis and linked to the duration of the PEPP. They will be **re-assessed before the end of 2020**, also considering whether there is a need to extend some of these measures to ensure that Eurosystem counterparties' participation in its liquidity providing operations is not adversely affected.

27/04/2020
Temporary measures to mitigate impact of possible rating downgrades on collateral availability

1. Context

On 7 April, ECB adopted a package of temporary collateral easing measures in order to mitigate the tightening of financial conditions across the euro area due to the economic impact of COVID-19. These measures ease the conditions at which credit claims are accepted as collateral and, as a result, making the granting loans more flexible. In order to achieve this goal, the Eurosystem is also increasing its risk tolerance to support the provision of credit via its refinancing operations, adopting measures such as lowering collateral valuation haircuts for all assets consistently.

In this context, the ECB has published **Temporary measures to mitigate impact of possible rating downgrades on collateral availability** which complements the broader collateral easing package that was announced on April. These measures aim to ensure that banks have sufficient assets that they can mobilise as collateral with the Eurosystem to participate in the liquidity-providing operations and to continue providing funding to the euro area economy.

2. Main points

- **Eligibility of marketable assets used as collateral**. Marketable assets and issuers of these assets that met the minimum credit quality requirements for collateral eligibility on 7 April 2020 (i.e. BBB- for all assets, except asset-backed securities (ABSs)) will continue to be eligible in case of rating downgrades, as long as their rating remains at or above credit quality step 5 (CQS5), which is equivalent to a rating of BB, on the Eurosystem harmonised rating scale. This ensures that assets and issuers that were investment grade at the time the ECB adopted the package of collateral easing measures remain eligible even if their rating falls two notches below the current minimum credit quality requirement of the Eurosystem. This temporary measures will have the following characteristics:
  - To be grandfathered, the assets need to continue to <u>fulfil all other existing collateral eligibility criteria</u>.
  - <u>Future issuances from grandfathered issuers will also be eligible</u> provided they fulfil all other collateral eligibility criteria.
  - <u>Currently eligible covered bond programmes</u> will also be grandfathered, under the same conditions.
  - <u>Currently eligible ABSs</u> to which a rating threshold in the general framework of CQS2 applies (equivalent to a rating of A-) <u>will be grandfathered as long as their rating remains at or above CQS4</u> (equivalent to a rating of BB+).
  - <u>Assets that fall below the minimum credit quality requirements</u> will be subject to <u>haircuts</u> based on their actual ratings.

3. Next steps

- These measures will apply until **September 2021** when the first early repayment of the third series of targeted longer-term refinancing operations (TLTRO-III) takes place.

11/05/2020
Alternative scenarios for the impact of the COVID-19 pandemic on economic activity in the euro area

1. Context
COVID-19 pandemic has dramatically affected global economic activity since early 2020. The rapid spread of the coronavirus (COVID-19) has required drastic measures to be taken such as social distancing, stopping of economic activity and the banning of public events to shutdowns. The containment measures are being lift gradually by national authorities, however, they could still be in force for some time. Consequently, these measures have weighed on supply and have also induced households and firms to retrench their spending, thereby reducing aggregate demand. In addition, widespread closures of firms have triggered a marked deterioration in employment conditions and an increase in firms' liquidity needs.

In this context, the ECB has published a set of **Alternative scenarios for the impact of the COVID-19 pandemic on economic activity in the euro area** to illustrate, through a scenario analysis, the high uncertainties surrounding the developments of the pandemic, the need for and effectiveness of containment measures, and the possible emergence of medical treatments and solutions. In particular, three scenarios are analysed and they vary according to a number of factors, namely: i) the duration of the strict lockdown measures and their impact on sectoral economic activity; ii) the economic effects of protracted containment measures during a post-lockdown transition period; iii) the behavioural responses by economic agents to minimise economic disruptions, and iv) the longer-lasting effects for economic activity once all containment measures have been lifted.

2. Main points

- **Mild scenario**. This scenario presumes a strict lockdown and further containment measures, as well as rapid advances in medical treatments, which entail relatively short-lived strict lockdown period (ending in the course of May 2020), a gradual return to normal activity thereafter and only temporary economic losses. The economic impact of the COVID-19 pandemic expected by this scenario consist on the following:
    - Euro area foreign demand will fall by around 7%.
    - Real GDP will plummet by around 5% in 2020.
    - As containment measures allow for a gradual normalisation of economic activity, real GDP is expected to increase by around 6% in 2021.
- **Medium scenario**. This scenario presumes a short-lived strict lockdown period (also ending in the course of May 2020) that is followed by relatively stringent and protracted containment measures, implying a delayed return to normal activity, as well as persistent output losses. The economic impact of the COVID-19 pandemic expected by this scenario consist on the following:
    - Euro area foreign demand will fall by around 11%.
    - Real GDP will plummet by around 8% in 2020.
    - Real GDP is expected to increase by around 5% in 2021.
- **Severe scenario**. This scenario presumes a longer-term strict lockdown period (ending in the course of June 2020) that has only limited success in containing the spread of the virus, thus requiring ongoing tough containment measures to remain in place even after some loosening of the very strict lockdowns. Furthermore, the sustained efforts to prevent the spread of the virus would continue to significantly dampen activity across sectors of the economy until a vaccine (or another effective medical solution) were to become available, which is not expected to occur until around mid-2021. Finally, this scenario envisages significant and permanent output losses. The economic impact of the COVID-19 pandemic expected by this scenario consist on the following:
    - Euro area foreign demand will fall by around 19%.
    - Real GDP will plummet by around 12% in 2020.
    - Real GDP is expected to increase by around 4% in 2021.
    - Under this scenario, real GDP is expected to remain well below the level observed at the end of 2019 until the end of 2022.
- **Impacts of containment measures across economic sectors**. The collapse in activity is initially the strongest for services, particularly those related to travel and recreational activities. Overall, the containment measures are assumed to cause a relatively larger loss of value added in retail trade, transport, accommodation and food service activities (60%) compared to manufacturing (40%), construction (40%) and other sectors (e.g. financial and insurance activities (10%) or agriculture (10%)). The economic loss during the first quarter, in terms of value added in relation to the normal level of activity, is estimated at approximately 30%. It is expected that during the second quarter this impact can be adjusted depending on the country (i.e. 20% - 30%). The marginal impact of an additional month of containment measures is initially between 2% and 2.5% on annual GDP.

3. Next steps

- Regardless of the publication of alternative scenarios for the impact of the COVID-19, Eurosystem staff will carry out the **macroeconomic projections** in the euro zona in **June 2020**, not only analysing the impact on economic activities but also fully-fledged projection exercise, including a detailed assessment of the inflation outlook.

EUROPEAN CENTRAL BANK
EUROSYSTEM

25/05/2020
Draft Guide on climate-related and environmental risks

1. Context

Following the adoption of the Paris Agreement on climate change and the UN 2030 Agenda for Sustainable Development in 2015, governments are making strides to transition to low-carbon and more circular economies on a global scale. In Europe, the European Green Deal sets out the objective of making Europe the first climate-neutral continent by 2050. In this sense, the financial sector is expected to play a key role and for the second year, the ECB has identified climate-related risks as a key risk driver on the SSM Risk Map for the euro area banking system.

In this context, the ECB has launched a public consultation on the **Draft ECB Guide on climate-related and environmental risks** which outlines the ECB's understanding of the safe and prudent management of climate-related and environmental risks (hereafter referred to as climate risks) under the current prudential framework, the expectations on how institutions should consider these risks – as drivers of established categories of prudential risks – when formulating and implementing their business strategy and governance and risks management frameworks, and the expectations on how institutions should become more transparent by enhancing their disclosure of information.

2. Main points

- **Scope**. The expectations set out in this guide are to be used in the ECB's supervisory dialogue with significant institutions directly supervised. However, this guide has been developed jointly by the ECB and the national competent authorities (NCAs) and therefore, NCAs are recommended to apply in substance the expectations established in this guide in their supervision of less significant institutions (LSIs), proportionately to the risk profile and business model of the institution.
- **Supervisory expectations relating to business models and strategy**. Institutions are expected is to identify, assess and monitor the current and forward-looking impact of climate-related and environmental factors on their business environment and to ensure the sustainability and resilience of their business model going forward.
- **Supervisory expectations relating to governance and risk appetite**. Institutions are expected to embed climate risks in their governance and risk appetite frameworks, while adequately involving all relevant functions. Additionally, appropriate and regular reporting on these risks to the management body is expected to ensure proper management of these risks.
- **Supervisory expectations relating to risk management**. This guide provides detailed guidance on integrating climate risks into credit, operational, market and liquidity risk management, as well as into the ICAAP, including risk quantification by means of scenario analysis and stress testing.
    - Risk management framework. Institutions are expected to incorporate climate risks as drivers of established risk categories into their existing risk management framework, with a view to managing and monitoring these over a sufficiently long-term horizon, and to review their arrangements on a regular basis. Furthermore, institutions are expected to identify and quantify these risks within their overall process of ensuring capital adequacy.
    - Credit risk management. Institutions are expected to consider climate risks at all stages of the credit-granting process and to monitor the risks in their portfolios.
    - Operational risk management. Institutions are expected to consider how climate-related events could have an adverse impact on business continuity and the extent to which the nature of institutions' activities could increase reputational and/or liability risks.
    - Market risk management. Institutions are encouraged to monitor on an ongoing basis the effect of climate-related and environmental factors on their current market risk positions and future investments, and to develop stress-testing scenarios that incorporate climate-related and environmental risks.
    - Scenario analysis and stress testing. Institutions with material climate risks are expected to evaluate the appropriateness of their stress testing, with a view to incorporating them into their baseline and adverse scenarios.
    - Liquidity risk management. Institutions are expected to assess whether material climate risks could cause net cash outflows or depletion of liquidity buffers and, if so, incorporate these factors into their liquidity risk management and liquidity buffer calibration.
- **Supervisory expectations relating to disclosures**. This guide establishes that for the purposes of their regulatory disclosures, institutions are expected to publish meaningful information and key metrics on climate risks that they deem to be material, as a minimum, in line with the European Commission's *Guidelines on non-financial reporting: Supplement on reporting climate-related information*.

3. Next steps

- Comments to this public consultation should be submitted by **September, 25 2020**.
- This Guide will be applicable as of its date of publication.

04/05/2020
Consultation Paper (CP) on proposed environmental, social and governance (ESG) disclosure standards

1. Context

Following the adoption of the 2015 Paris Agreement on climate change and the United Nations (UN) 2030 Agenda for Sustainable Development, the European Commission (EC) has expressed in the Action Plan "Financing Sustainable Growth" its intention to clarify fiduciary duties and increase transparency in the field of sustainability risks and sustainable investment opportunities. Given the environmental emergency situation, urgent action is needed to mobilise capital not only through public policies but also by means of the financial services sector. In order to adapt to this new environment, financial markets participants and financial advisers should be required to disclose specific information on their approaches to the integration of sustainability risks and the consideration of adverse sustainability impacts.

In this context, the ESAs have published the **Joint Consultation Paper on ESG disclosures standards for financial market participants, advisers and products** with the aim of seeking input to develop draft Regulatory Technical Standards (RTS) on sustainability-related disclosures in the financial services sector (SFDR) with regard to the content, methodologies and presentation of information in relation to sustainability indicators and the promotion of environmental or social characteristics and sustainable investments objectives in pre-contractual documents, websites and periodic reports.

Furthermore, a preliminary analysis of the expected impacts of the proposed draft RTS is also included in order to gather stakeholder feedback on possible costs and benefits of the proposals and the relative scale of these costs and benefits for different stakeholders.

2. Main points

- **Transparency of adverse sustainability impacts**. This draft RTS provides a specification for the content, methodology and presentation of the information in respect of the sustainability indicators in relation to adverse impacts on the climate and other environment-related adverse impacts in the field of social and employee matters, respect for human rights, anti-corruption and anti-bribery matters. In particular, this draft RTS includes the following aspects:
    - A mandatory reporting template to use for the statement on considering principal adverse impacts of investment decisions on sustainability factors, as well as the actions taken and planned to mitigate these impacts.
    - A set of indicators for both climate and environment-related adverse impacts and adverse impacts in the field of social and employee matters, respect for human rights, anti-corruption and anti-bribery matters.
    - A statement to be published where adverse impacts of investment decisions are not considered by financial market participants and advisers on their websites.
    - Requirements for financial advisers in line with their obligations.
- **Pre-contractual product disclosure**. This draft RTS set out the details of the content and presentation of the information to be disclosed at the pre-contractual level in the sectoral documentation. In particular, this draft RTS includes the following aspects:
    - A requirement to use a mandatory reporting template for the presentation of pre-contractual disclosure.
    - A list of items to be included in the reporting indicating clearly the type of product and how the environmental or social characteristic (or combination thereof) or the sustainable investment objective of the product are achieved.
    - Additional items of disclosure where the product designates an index as a reference benchmark.
    - Requirements for products making sustainable investments regarding how the product complies with the *do not significantly harm* principle in relation to the principal adverse impact indicators.
- **Website product disclosure**. This draft RTS set out the details of the content and presentation of information to be publicly disclosed on the website by the financial market participant. In particular, this draft RTS includes the following aspects:
    - Set out where and how the financial market participant must publish the information on the website.
    - A list of items to be included in the disclosure, focusing on the methodology employed, the data sources used, and any screening criteria employed.
    - Requirements for products making sustainable investments regarding how the product complies with the *do not significantly harm* principle in relation to the principal adverse impact indicators.

2. Main points (cont.)

- **Public disclosure in periodic report**. This draft RTS set out the details of the content and presentation of information to be disclose. In particular, this draft RTS includes the following aspects:
    - A requirement to use a mandatory reporting template for the presentation of the periodic disclosure.
    - A list of items to be included in the reporting, focusing on the success of the product in attaining its environmental or social characteristic (or combination thereof) or sustainable investment objective.
    - Requirements for products making sustainable investments regarding how the product complies with the *do not significantly harm* principle in relation to the principal adverse impact indicators.

3. Next steps

- Comments to this CP could be submitted until **1 September 2020**.
- The final regulation shall apply from **10 March 2021**.
- Provisions regarding product disclosure in periodic reports shall apply from **1 January 2022**.

11/05/2020
Final Report on EMIR RTS on various amendments to the bilateral margin requirements in view of the international framework

1. Context

In 2016, the European Commission (EC) adopted the regulation to implement the Basel Committee on Banking Supervision (BCBS) and the International Organization of Securities Commissions (IOSCO) international standards for the exchange of bilateral margin in the EU. In particular, this international framework contains a phase-in for the implementation of the initial margin requirements which has been spread over several years and this implementation is still ongoing. Since then, the ESAs have monitored the implementation of these requirements in the EU, and by the regulatory community at the global level, including the BCBS and IOSCO as well as the Financial Stability Board (FSB). This monitoring has confirmed overall progress towards the implementation of the standards but has also highlighted certain areas where further consistency could be facilitated, or areas where the requirements could be clarified or slightly amended in order to facilitate their implementation.

In this context, and after the publication of the draft RTS on December 2019, the ESAs have published the **Final Report on EMIR RTS on various amendments to the bilateral margin requirements in view of the international framework** with the aim to introduce some amendments on the implementation regulation, such as the deferral of one year the implementation of the remaining phases of the initial margin requirements, as a consequence of the outbreak of COVID-19 or the clarification of the application of those requirements.

2. Main points

- **Proposed amendments and clarifications**:
  - Clarification of the requirements when below the €50 million initial margin threshold: the framework's implementation does not specify documentation, custodial or operational requirements if the bilateral initial margin amount does not exceed the framework's €50 million initial margin threshold.
  - Extension of the phase-in of the implementation of the initial margin requirements: the Basel Committee and IOSCO have agreed to extend by one year the final implementation of the margin requirements for covered entities with an aggregate average notional amount (AANA) of non-centrally cleared derivatives greater than €8 billion. Additionally, they introduce an additional implementation phase for covered entities with an AANA of non-centrally cleared derivatives greater than €50 billion
- **Implementation deferral**. The ESA have reviewed the application of the relevant requirements of EC's Regulation on bilateral margining and submitted the draft RTS in December 2019. However, in response to the Covid-19 outbreak in 2020, the Final Report has been updated to take into account the related decision from the BCBS and IOSCO communicated on 3 April 2020 to defer the implementation of the remaining phases of the initial margin requirements. Therefore, the final implementation phase will take place on 1 September 2022, at which point covered entities with an aggregate average notional amount (AANA) of non-centrally cleared derivatives greater than €8 billion will be subject to the requirements. As an intermediate step, from 1 September 2021 covered entities with an AANA of non-centrally cleared derivatives greater than €50 billion will be subject to the requirements.
- **Physically settled FX Forwards and Swaps**. BCBS and IOSCO agree the standards apply for variation margin to be exchanged on physically settled FX forwards and swaps in a manner consistent with the final policy framework set out in this guidance and that those variation margin standards are implemented either by way of supervisory guidance or national regulation. However, the adoption of the international standards in other jurisdictions via supervisory guidance had implied differences in international scope of application, especially on transactions between institutions and end-users. For this reason, the ESA have proposed to amend the regulation by broadening the scope on the treatment of physically settled foreign exchange forwards and physically settled foreign exchange swaps, applying the permanent exemption for certain contracts when entered into between institutions and end-users for both.

2. Main points (cont.)

- **Temporary exemption for single-stock equity options and index options**. The ESA postponed the application of bilateral margin requirements for single-stock equity options or index options transactions until 4 January 2020, in order to correct the differences in margin requirements between jurisdictions. However, the situation has not materially changed, thus the ESA propose to extend by one year the current deferred application of the margin requirements for single-stock equity options or index options transactions in the EU framework (i.e. 4 January 2021).
- **Temporary exemption for intragroup transactions**. The ESAs consider that it is proportionate to extend the temporary exemption for bilateral margin relates to intragroup transactions with a third country entity in the absence of an equivalence decision adopted by the European Commission. This proposal is aligned with the exemption for the clearing obligation (i.e. until 21 December 2020), being both to ensure that such intragroup OTC derivate contracts were not subject to the EMIR clearing or bilateral margin requirements before the adoption of the relevant equivalence decisions.

3. Next steps

- These amendments have been **submitted to the EC** for review and endorsement.

27/04/2020

- **Public Statement: Actions to mitigate the impact of COVID-19 on the EU financial markets regarding publication deadlines under the Transparency Directive**
- **Public Statement: Actions to mitigate the impact of COVID-19 on the deadlines for the publication of periodic reports by fund managers**
- **Extension of the response date for the Consultation Paper: MiFID II/ MiFIR review report on the transparency regime for non-equity instruments and the trading obligation for derivatives**
- **Public Statement: ESMA postpones the publication dates of the annual transparency calculations for non-equity instruments and for the quarterly systematic internaliser data for non-equity instruments other than bonds**
- **Public Statement: Actions to mitigate the impact of COVID-19 on the EU financial markets regarding the timeliness of fulfilling external audit requirements for interest rate benchmarks under the Benchmarks Regulation**

1. Context

Since the beginning of March, various agendcies at both the local and supranational levels have begun to issue measures to mitigate the possible impact that the COVID-19 could have on the economy. In Europe, the European Central Bank (ECB) has launched a new temporary asset purchase programme of private and public sector securities called the Pandemic Emergency Purchase Programme (PEPP) of €750 billion and it allow banks to temporarily operate below Pillar 2 Guidance (P2G), the CCB and the LCR requirement. Furthermore, the EBA has decided to postpone the EU-wide stress test exercise to 2021 and it will carry out an additional EU-wide transparency exercise in 2020, and the ESMA has issued a Guidance on accounting implications of COVID-19.

In this context, the ESMA has published a **Public Statement (PS) on actions to mitigate the impact of COVID-19 on the EU financial markets regarding publication deadlines under the Transparency Directive (TD)**. In particular, this PS recommends National Competent Authorities (NCAs) to apply forbearance powers towards issuers who need to delay publication of financial reports beyond the statutory deadline.

Furthermore, the ESMA has published 3 documents that postpone **the effective date for the presentation of responses to a consultation paper about MiFID II and MiFIR**, the **publication dates of the annual transparency calculations for non-equity instruments and for the quarterly systematic internaliser (SI) data for non-equity instruments other than bonds**, and the deadlines for the **publication of periodic reports by fund managers**. Finally, the ESMA has also issued a **Public Statement on Actions to mitigate the impact of COVID-19 on the EU financial markets regarding the timeliness of fulfilling external audit requirements for interest rate benchmarks under the Benchmarks Regulation**.

2. Main points

<u>Public Statement: Actions to mitigate the impact of COVID-19 on the EU financial markets regarding publication deadlines under the Transparency Directive</u>

- **Prorogation of deadlines**. The ESMA states that the preparation of periodic information must continue to be carried out in accordance with the applicable financial reporting framework to ensure investor protection and to preserve the integrity and proper functioning of EU financial markets. However, the ESMA encourages NCAs to act in a coordinated way and to generally apply a risk-based approach in the exercise of supervisory powers in their day-to-day enforcement of applicable legislation in the area of the TD concerning the publication deadline of financial reports. The ESMA expects NCAs during this specific period not to prioritise supervisory actions against issuers in respect of the upcoming deadlines set out in the TD regarding:
    - <u>Annual financial reports</u> referring to a year-end occurring on or after 31 December 2019 but before 1 April 2020 for a period of <u>two months following the TD deadline</u>.
    - <u>Half-yearly financial reports</u> referring to a reporting period ending on or after 31 December 2019 but before 1 April 2020 for a period of <u>one month following the TD deadline</u>.

  This PS will not be relevant to Member States where some measures regarding the applicable publication deadlines for financial reports have taken place or will take place.
- **Reporting of the delay**. Where issuers reasonably anticipate that publication of their financial reports will be delayed beyond the deadline set out in national laws transposing the TD, they are expected to inform their NCA of this and inform the market of the delay, the reasons for such delay and to the extent possible the estimated publication date.

2. Main points (cont.)

Public Statement: Actions to mitigate the impact of COVID-19 on the deadlines for the publication of periodic reports by fund managers

- **Publication deadlines for periodic information**. Considering that Fund Managers may be prevented from fulfilling the requirements due to COVID-19, ESMA expects NCAs to act in accordance with national rules set out in their Member States and when possible during this specific period not to prioritise supervisory actions against these market participants in respect of the upcoming deadlines regarding:
  - Annual reports referring to a year-end occurring on or after 31 December 2019 but before 1 April 2020 for a period of two months following the relevant deadline.
  - Annual reports referring to a year-end occurring on or after 1 April 2020 but before 1 May for a period of one month following the relevant deadline19.
  - Half-yearly reports of UCITS referring to a reporting period ending on or after 31 January 2020 but before 1 April 2020 for a period of one month following the deadline set out in the UCITS Directive.

Extension of the response date for the Consultation Paper: MiFID II/ MiFIR review report on the transparency regime for non-equity instruments and the trading obligation for derivatives

- **Extension of the response date**. The ESMA has extended the response date for the consultation on the MiFID II/MiFIR review report on the transparency regime for non-equity instruments and the trading obligation for derivatives from 17 May to 14 June 2020.

Public Statement: ESMA postpones the publication dates of the annual transparency calculations for non-equity instruments and for the quarterly systematic internaliser (SI) data for non-equity instruments other than bonds

- **New deadline for the publication of transparency and quarterly SI calculations**. The ESMA, in cooperation with the NCAs will postpone the publication of those calculations which include the liquidity assessment and the determination of the pre-trade and post-trade large in scale and size specific to the instrument thresholds from 30 April 2020 to 15 July 2020 and their application from 1 June 2020 to 15 September 2020. ESMA will publish the data for the performance of the SI test for derivatives, emission allowances and structured finance products by 1 August 2020 and its mandatory regime will apply from 15 September 2020.
- **Exceptions**. Until and including 14 September 2020 the transitional transparency calculations (TTC) will continue to apply. Furthermore, the publication and application of the annual transparency calculations for bonds remain unchanged and the new thresholds will be applicable from 1 June 2020.

Public Statement: Actions to mitigate the impact of COVID-19 on the EU financial markets regarding the timeliness of fulfilling external audit requirements for interest rate benchmarks under the Benchmarks Regulation

- **Timeliness of fulfilling the external audit requirements**. ESMA expects NCAs not to prioritise supervisory actions against administrators and supervised contributors relating to the timeliness of fulfilling those audit requirements where the audits are carried out by 30 September 2020.

3. Next steps

- The ESMA, together with NCAs, **will continue to closely monitor the situation** and will take or recommend any measures necessary to mitigate the impact of COVID-19 on timely and appropriate financial disclosure by issuers.

01/06/2020
Public Statement on Implications of the COVID-19 outbreak on the half-yearly financial reports

1. Context
The COVID-19 outbreak has posed significant challenges to business activities and introduced a high degree of uncertainty on the expected development of the pandemic and the associated knock-on effects on the economic and financial system, both at European and at international level. Given the complexities of the current environment the importance of providing the necessary level of transparency and quality in financial communication is greater than ever.

In this context, the ESMA has published a **Public Statement (PS) on Implications of the COVID-19 outbreak on the half-yearly financial reports** which promotes transparency and consistent application of European requirements for the information provided on the interim financial statements according to IFRS and the interim management reports for the 2020 half-yearly reporting periods. This PS provides recommendations and highlights: i) the importance of providing relevant and reliable information; ii) the importance of updating the information included in the latest annual accounts to adequately inform stakeholders of the impacts of COVID-19, and iii) the need for entity-specific information on the past and expected future impact of COVID-19 on the strategic orientation and targets, operations, performance of issuers as well as any mitigating actions put in place to address the effects of the pandemic.

2. Main points

- **Timing of publication of half-yearly financial reports 2020**. ESMA highlights that the key driver on issuing the half-yearly financial reports shall remain the objective of providing timely, relevant and reliable information, while not unduly delaying the publication of periodic information. In this respect, ESMA also reminds issuers to carefully consider the impact on their financial statements of any material events occurring after the end of the reporting period and to provide the relevant disclosures in accordance with IAS 34.
- **Half-yearly financial statements**. These financial statements have special aspects that must be taken in consideration in relation to:
  - <u>Application of IAS 34</u>. When preparing their interim financial statements in accordance with IAS 34, issuers are reminded and urged:
    - That the **extent of the information** provided should be proportionate to the objective of providing an update on the latest complete set of annual financial statements, including new events and circumstances as the COVID-19 outbreak.
    - To adjust and potentially expand the **level of detail** of the information provided in the half-yearly financial statements. It implies to comply with the disclosures requirements from individual IFRSs and IAS1 in relation to providing relevant information on the economic consequences arising from the COVID-19 outbreak.
    - To **provide transparency** regarding the application of the relief and support measures in terms of eligibility, conditions and consequences as well as in terms of the underlying judgements they made.
  - <u>Disclosures reflecting significant uncertainties, going concern and risks linked to COVID-19</u>. The COVID-19 outbreak has introduced uncertainty in the conduct of most businesses and, as a result, a significant risk of material adjustment to the carrying amounts of assets and liabilities may have arisen. In these cases, ESMA:
    - It urges issuers to **update the assessment made at year-end about the assumptions regarding the future** and other major sources of estimation uncertainty.
    - It expects issuers most significantly impacted by COVID-19, to **provide disclosures about the going concern assessment** and the related underlying judgements where these are significant.
    - It reminds issuers of the importance of providing disclosures regarding **risks which were in full or in part unknown** or not relevant at the end of the last annual reporting period and to consider the requirements in IFRS 7 regarding, especially on the exposures of issuers to credit, liquidity and other risks and the related sensitivities. Particularly, EBA notes the need of disclosure to explain the assumptions and judgments applied on the calculation of expected credit losses in accordance with IFRS 9.

2. Main points (cont.)

  - Impairment of non-financial assets. ESMA reminds issuers that, in accordance with IAS 36, they should assess whether there are any indications that an asset may be impaired on the basis of a set of internal and external sources of information. In making this assessment, issuers should carefully consider the effects of the COVID-19 outbreak which, in ESMA's view, would most likely constitute a strong basis to conclude that one or more of the impairment indicators in IAS 36 have been triggered. Particularly, ESMA notes that the determination of the recoverable amount in the current uncertain environment requires a careful assessment of the cash-flow projections over a relevant horizon considering multiple scenarios.
  - Presentation of COVID-19 related items in the statement of profit or loss. ESMA encourages issuers to provide information, on a quantitative basis, on the significant impacts of the COVID-19 outbreak as part of the explanations of the amounts presented and recognised in the statement of profit or loss in a single note as part of the notes to the financial statements.
  - Other disclosure requirements. ESMA highlights that issuers should consider whether other requirements in IFRS are also relevant in the context of their half yearly financial reporting (e.g. recognition of deferred tax assets or fair value measurement, among others).
- **Interim management reports**. ESMA recommends that issuers provide detailed and entity specific information in their interim management reports regarding:
  - The impact that the COVID-19 pandemic had on their strategic orientation and targets, operations, financial performance, financial position and cash-flows.
  - Measures taken to address and mitigate the impacts of the COVID-19 pandemic on their operations, performance and their state of completion (including, but not limited to, the detail of the application of public support measures and the planned renegotiation of major contracts)
  - The expected future impact on issuers' financial performance, financial position and cash-flows, related risks and contingency measures planned to mitigate the expected future impact and risk and uncertainties identified.
  - Narrative information regarding the estimates and judgements made as well as assumptions used to determine the future impact of the COVID-19 pandemic on the business of the issuer and how the different uncertainties faced affected the estimates made and the strategy undertaken by the issuer to address the impact of COVID-19.

3. Next steps

- ESMA will collect data on how EU listed entities have applied the recommendations and will take into account those findings, in setting the enforcement priorities for the annual financial statements for the year 2020. These findings will be reported on in **ESMA's Report on the 2020 enforcement activities**.

10/06/2020
Consultation Paper (CP) on Draft Guidelines (GL) on outsourcing to cloud service providers

1. Context

IT outsourcing is a common practice for firms, and cloud computing solutions are increasingly becoming the preferred IT outsourcing option for many firms. Although cloud outsourcing can offer a number of benefits, including reduced costs and enhanced operational efficiency and flexibility, it raises challenges in terms of data protection and information security. Concentration risk can also arise, as a result of many firms using the same large cloud service providers (CSP). In this sense, following the European Commission's FinTech Action Plan and feedback received from firms and stakeholders, ESMA identified the need to develop guidance on outsourcing to cloud service providers.

In this context, the ESMA has published a **Consultation Paper (CP) on Draft Guidelines (GL) on outsourcing to cloud service providers** with the aim to help firms to identify, address and monitor the risks that may arise from their cloud outsourcing arrangements (from making the decision to outsource, selecting a CSP, monitoring outsourced activities to providing for exit strategies).

2. Main points

- **Scope**. The Draft GL proposed applies to national competent authorities (NCAs) and financial market participants. In particular, this paper is of interest to alternative investment fund managers, depositaries of alternative investment funds, undertakings for collective investment in transferable securities (UCITS) management companies, depositaries of UCITS, central counterparties, trade repositories, investment firms and credit institutions which carry out investment services and activities, data reporting services providers, market operators of trading venues, central securities depositories, credit rating agencies, securitisation repositories and administrators of benchmarks ("firms").
- **Governance, oversight and documentation**. This CP establishes that with regard to governance, oversight and documentation firms should:
  - Have a defined and up to date cloud outsourcing strategy that is consistent with the firm's relevant strategies (e.g. ICT strategy or internal policies and processes).
  - Monitor on an ongoing basis the performance of activities, the security measures and the adherence to agreed service levels by its CSPs on a risk-based approach.
  - Maintain an updated register of information on all its cloud outsourcing arrangements, distinguishing between the outsourcing of critical or important functions and other outsourcing arrangements.
- **Pre-outsourcing analysis and due diligence**. In general, the pre-outsourcing analysis and due diligence should be proportionate to the nature, scale and complexity of the function that the firm intends to outsource and the risks inherent to this function. It should include at least an assessment of the potential impact of the cloud outsourcing arrangement on the firm's operational, legal, compliance, and reputational risks. Before entering into any cloud outsourcing arrangement, firms should: i) assess if the cloud outsourcing arrangement concerns a critical or important function; ii) identify and assess all relevant risks of the cloud outsourcing arrangement; iii) undertake appropriate due diligence on the prospective CSP; and iv) identify and assess any conflict of interest that the outsourcing may cause.
- **Contractual requirements**. This CP establishes that the respective rights and obligations of a firm and of its CSP should be clearly allocated and set out in a written agreement, which should expressly allow the possibility for the firm to terminate it where necessary.
- **Information security**. This CP sets out that firms should set information security requirements in its internal policies and procedures and within the cloud outsourcing written agreement and monitor compliance with these requirements on an ongoing basis, including to protect confidential, personal or otherwise sensitive data.
- **Exit strategies**. This CP establishes that in case of outsourcing of critical or important functions, firms should ensure that it is able to exit cloud outsourcing arrangements without undue disruption to its business activities and services to its clients, and without any detriment to its compliance with the applicable legal requirements, as well as the confidentiality, integrity and availability of its data. Furthermore, the firm should include indicators of the trigger events of the exit strategy in its ongoing monitoring and oversight of the services provided by the CSP.

2. Main points (cont.)

- **Access and audit rights**. This CP sets out that firms should ensure that the exercise of the access and audit rights (e.g. the audit frequency and the areas and services to be audited) takes into consideration whether the outsourcing is related to a critical or important function, as well as the nature and extent of the risks and impact arising from the cloud outsourcing arrangement on the firm. In case the exercise of the access or audit rights, or the use of certain audit techniques create a risk for the environment of the CSP and/or another CSP's client (e.g. by impacting service levels, confidentiality, integrity and availability of data), the firm and the CSP should agree on alternative ways to provide a similar result (e.g. the inclusion of specific controls to be tested in a specific report/certification produced by the CSP).
- **Sub-outsourcing**. This CP establishes that If sub-outsourcing of critical or important functions (or a part thereof) is permitted, the cloud outsourcing written agreement between the firm and the CSP should, among others, specify any part or aspect of the outsourced function that are excluded from potential sub-outsourcing, indicate the conditions to be complied with in case of sub-outsourcing; and include an obligation for the CSP to notify the firm of any planned sub-outsourcing, or material changes.
- **Written notification to competent authorities (CAs)**. This CP sets out that in case of planned outsourcing of critical or important functions, firms should notify its CA in a timely manner.
- **Supervision of cloud outsourcing arrangements**. CA should assess the risks arising from firms' cloud outsourcing arrangements as part of their supervisory process. In particular, this assessment should focus on the arrangements that relate to the outsourcing of critical or important functions. CAs should assess on a risk-based approach whether firms:
    - <u>Have in place the relevant governance, resources and operational processes</u> to appropriately and effectively enter into, implement, and oversee cloud outsourcing arrangements.
    - <u>Identify and manage all relevant risks</u> related to cloud outsourcing. If concentration risks are identified, CAs should monitor the development of such risks and evaluate both, their potential impact on other firms and the stability of the financial market.

3. Next steps

- Comments to this CP should be submitted by **1 September 2020**.
- It is expected that ESMA publishes a **final report and GL between Q4 2020 and Q1 2021**.
- The Final GL will apply from **30 June 2021** to all cloud outsourcing arrangements entered into, renewed or amended on or after this date. Firms should review and amend accordingly existing cloud outsourcing arrangements with a view to ensuring that they take into account these GL by **31 December 2022**, and if the revision is not finalized by then, firms should inform their CA.

10/06/2020
Guidelines on certain aspects of the MiFID II compliance function requirements

1. Context

In 2012, the ESMA published Guidelines on certain aspects of the MiFID compliance function requirements to clarify the application of certain aspects of the MiFID compliance function requirements in order to ensure the common, uniform and consistent application. However, since that publication, MiFID II was approved on 2014 by the European Parliament and Council, which brought some changes to the previous regulation.

In this context, the ESMA has published **Guidelines on certain aspects of the MiFID II compliance function requirements** with the aim to establish consistent, efficient and effective supervisory practices within the European System of Financial Supervision (ESFS) and to ensure the common, uniform and consistent application of certain aspects of the MiFID II compliance function. ESMA also expects these guidelines to promote greater convergence in the interpretation of, and supervisory approaches to, the aforementioned requirements by focusing on a number of important issues, and thereby enhancing the value of existing standards. These guidelines replace the ESMA guidelines on the same topic issued in 2012 and include updates that enhance clarity and foster greater convergence in the implementation, and supervision, of the new MiFID II compliance function requirements.

2. Main points

- **Scope**. These guidelines apply to competent authorities and to the following financial market participants:
  - Investment firms when carrying out investment services or investment activities or when selling or advising clients in relation to structured deposits.
  - Credit institutions when carrying out investment services or investment activities or when selling or advising clients in relation to structured deposits.
  - Undertakings for collective investment in transferable securities (UCITS) and alternative investment fund managers (AIFMs) management companies when providing investment services and activities in accordance with the UCITS Directive and the AIFMD.
- **Responsibilities of the compliance function**. It comprises the following guidelines:
  - Compliance risk assessment. The findings of the compliance risk assessment should be used to set the work programme of the compliance function and to allocate the functions resources efficiently. In identifying the level of compliance risk the firm faces, MiFID II requires the compliance function to take into account all the areas of the investment services, activities and ancillary services provided by the firm. The identified risks should be reviewed on a regular basis and, when necessary, also on an ad-hoc basis to ensure that any emerging risks are taken into consideration.
  - Monitoring obligations of the compliance function. The risk-based monitoring programme should evaluate whether the firm's business is conducted in compliance with its obligations under MiFID II as well as whether its internal policies and procedures, organisation and control measures remain effective and appropriate to ensure that compliance risk is comprehensively monitored. The risk-based approach to compliance should form the basis for determining the appropriate tools and methodologies used by the compliance function (e.g. risk indicators, exceptions report or the observation of procedures), as well as the extent of the monitoring programme and the frequency of monitoring activities performed by the compliance function.
  - Reporting obligations of the compliance function. The mandatory compliance reports should cover all business units involved in the provision of investment services, activities and ancillary services provided by a firm. Where the report does not cover all of these activities and services of the firm, it should clearly state the reasons. The mandatory compliance reports should, inter alia, contain information on the following matters, where relevant:
    - **General information** (e.g. adequacy and effectiveness of the firm's policies and procedures or a summary of the compliance function's structure).
    - **Manner of monitoring and reviewing** (e.g. how the compliance-function monitors the development and review of the obligations under MiFID II or the summary of on-site inspections or desk-based reviews).
    - **Findings** (e.g. a summary of major findings of the reviews or the breaches and deficiencies in the firm's organisation and compliance process).
    - **Actions taken** (e.g. any action taken to address any significant risk of failure by the firm or its staff to comply with the obligations under MiFID II).
    - **Others** (e.g. other significant compliance issues).

2. Main points (cont.)

- Advisory and assistance obligations of the compliance function. Firms should ensure that the compliance function fulfils its advisory and assistance responsibilities, including providing support for staff and management training; providing day-to-day assistance for staff and management and participating in the establishment of policies and procedures within the firm. Firms should promote and enhance a 'compliance culture' throughout the firm, which should be supported by the senior management and its objective is to engage staff with the principle of improving investor protection as well as contributing to the stability of the financial system. Finally, firms should ensure that the compliance function is involved in the development of the relevant policies and procedures as well as all significant modifications of the organisation of the firm in the area of investment services, activities and ancillary services.

- **Organisational requirements of the compliance function**.
  - Effectiveness of the compliance function. Firms should take into account the scale and types of investment services, activities and ancillary services undertaken by the firm, in order to ensure that appropriate human and other resources are allocated to the compliance function. It implies that the firm should ensure that the compliance function is similarly extended as necessary in view of changes to the firm's compliance risk.
  - Skills, knowledge, expertise and authority of the compliance function. Firm's compliance staff shall have the necessary skills, knowledge and expertise to discharge their obligations pursuant to MIFID II. In particular, the compliance officer should demonstrate sufficient professional experience as it is necessary to be able to assess the compliance risks and conflicts of interest inherent in the firm's business activities.
  - Permanence of the compliance function. Firms should establish adequate arrangements for ensuring that the responsibilities of the compliance officer are fulfilled when the compliance officer is absent, and adequate arrangements to ensure that the responsibilities of the compliance function are performed on an ongoing basis.
  - Independence of the compliance function. Firms should ensure that the compliance function holds a position in their organisational structure that ensures that the compliance officer and other compliance staff act independently when performing their tasks. It also implies that other business units may not issue instructions or otherwise influence compliance staff and their activities and an appropriate escalation process by the compliance function to senior management should be implemented.
  - Proportionality with regard to the effectiveness of the compliance function. Firms should decide which measures are best suited to ensuring the effectiveness of the compliance function in the firm's particular circumstances. In particular, they should take into account the criteria set out in this guideline for deciding whether the requirements under MIFID II are proportionate (e.g. the type of business activity or staff headcount)
  - Combining the compliance function with other internal control functions. The combination of the compliance function with other control functions may be acceptable if this does not compromise the effectiveness and independence of the compliance function, except for the blend of internal audit and other control functions such as the compliance.
  - Outsourcing of the compliance function. According to MIFID II, firms can only outsource tasks, but not responsibilities. It means that the ability to control outsourced tasks and manage the risks associated with the outsourcing must always be retained by the firm initiating the outsourcing. Before choosing a service provider, the firm should perform a due diligence assessment and later, it should monitor the outsourced tasks, in order to ensure the service provider has the necessary authority, resources, expertise and access to all relevant information to perform the outsourced compliance function tasks effectively.
- **Competent authority review of the compliance function**.
  - Review of the compliance function by competent authorities. Competent authorities should review how firms plan to meet, implement and maintain the applicable compliance function requirements. This should apply in the context of the authorisation process, as well as, following a risk-based approach, in the course of on-going supervision.

3. Next steps

- These guidelines apply from **two months** of the date of publication of the guidelines on ESMA's website in all EU official languages. Competent authorities to which these guidelines apply must notify ESMA whether they
  - Comply.
  - Do not comply, but intend to comply.
  - Do not comply and do not intend to comply with the guidelines. In this case, the competent authorities must also notify ESMA within two months of the date of publication of the guidelines of their reasons for non-complying with them.

27/04/2020
Statement on principles to mitigate the impact of COVID-19 on the occupational pensions sector

1. Context

In 2016, the IORP II Directive sets minimum prudential rules for Institutions for Occupational Retirement Provision (IORPs) in the EU. However, regulation remained very diverse between Member States because occupational pension systems depend on the domestic legal system of each state. This diversity of the national regulatory frameworks is shown in differences in the extent to which risks are borne by members and beneficiaries, the IORP itself, sponsors and pension protection schemes.

In this context, the EIOPA has published the **Statement on principles to mitigate the impact of COVID-19 on the occupational pensions sector**. The objective is that National Competent Authorities (NCAs) of each member state adhere to these principles in order to mitigate the impact on IORPs and their members and beneficiaries, as well as to avoid pro-cyclical effects on the real economy and the financial system.

2. Main points

- **Business continuity and operational risks**.
    - NCAs should ensure that IORPs prioritise the <u>continuity of key operational activities and allow them flexibility</u> in the collection of contributions from employers facing liquidity pressures.
    - NCAs should expect IORPs to carefully consider and effectively manage the <u>increased risk exposure to fraud, other criminal activity, cyber security and data protection</u> due to the social impact of COVID-19 and, in particular, staff working remotely.
    - NCAs should be <u>flexible with respect to deadlines</u> for publication of documents and data considered less urgent and the national reporting requirements.
- **Liquidity positions**. NCAs should monitor the liquidity position of IORPs carefully and proportionately regarding liquidity pressures such as delayed or missing contributions from employers and employees and any moratorium on payments on loans and mortgages among others.
- **Funding situation and pro-cyclicality**. NCAs should closely monitor the impact of financial market developments on the financial position of IORPs providing defined benefit (DB) schemes and their compliance with national funding requirements. Additionally, they should seek to find an appropriate balance between safeguarding the long-term interests of beneficiaries and avoiding short-term pro-cyclical impacts on the real economy.
- **Protection of members and beneficiaries**. NCAs should encourage flexibility to safeguard members' pension rights and, particularly in defined contribution (DC) schemes, allow plan members to choose delayed application of lump sum payments or of mandatory annuitisation.
- **Communication**. NCAs should expect IORPs to communicate to their sponsors, members and beneficiaries on the impact of the coronavirus developments on the IORP's service continuity, economy and the future financial situation regarding retirement income of members and beneficiaries. In addition, they should discourage the making short-term decisions by members which could endanger long-term pensions outcomes.

3. Next steps

- EIOPA **has extended by two weeks** the deadline for the information regarding the **first quarter of 2020** and by **eight weeks** for the information regarding **annual reporting with reference to the year-end 2019**.

17/06/2020
Discussion paper on (re)insurance value chain and new business models arising from digitalisation

1. Context

As technology continues to evolve, increasing the extent and ways by which insurers rely on third-parties within the insurance value chain, and new opportunities, social change and consumers expectations arise, European Insurance and Occupational Pension Authority (EIOPA) has found increasing complexity in how insurance is being manufactured and distributed, with new kinds of distributors and products emerging that can challenge existing supervisory and regulatory practices. As a consequence, more attention to different companies involved throughout the value chain must be supervised or at least identified and overseen efficiently and effectively.

In this context, the EIOPA has published a **Discussion paper (DP) on (re)insurance value chain and new business models arising from digitalisation**, which main aim is to get a better picture on possible fragmentation of the EU insurance value chain and supervisory challenges in order to plan for next steps. In this sense, this DP acts as a first step scrutinising the situation with the purpose to support supervisors in these challenges. To achieve this, the EIOPA expects from interested parties their views on whether they agree with view of the risks and benefits, and whether they have any comments or additional proposals on proposed solutions and/or next steps.

2. Main points

- **Increased fragmentation of the value chain**. The use of third-party services and outsourcing, and the trends for the emergence of co-operation models where the insurance value chain (e.g. product design or pricing) is originated, raises a number of potential risk that other firms outside the insurance regulatory perimeter take a predominant position. The three primary drivers of fragmentation are:
  - <u>Technology firms</u> (outside the traditional insurance landscape), demonstrating that certain processes within the insurance value chain can be carried out cheaper, more efficiently and more effectively with new technologies.
  - <u>Customers increasingly purchasing and interacting with businesses via digital ecosystems / platforms</u> (increased digitalisation of consumer interactions).
  - <u>The offering of insurance policies is complemented with the provision of other ancillary services to consumers</u> (e.g. different risk-preventive/additional services such as geolocation in case of a car stolen or assistance in health insurance contracts).
- **Case studies**. The EIOPA staff and volunteering NCAs have conducted case studies on concrete business models as part of the exercise that can be seen as related to the fragmentation of the value chain, with the aim to start exploring potential issues (and benefits) in a much more concrete fashion:
  - <u>Insurance platforms and ecosystems</u>. There has been general rapid growth of digital platforms and ecosystems in recent times, being the platform the technical infrastructure necessary for multiple participants to connect, interact with each other and create and exchange value, and the ecosystem, an interconnected set of services that allows participants to address a broad variety of client needs in one integrated experience.
  - <u>On-demand insurance</u>. It is an insurance cover tied to the actual time spent ‘on risk’ (e.g. kilometres driven) rather than the policy being ‘live’ for an extended period of time (e.g. 1 year).
  - <u>Instant insurance</u>. The emerging business model is so called ‘instant’ or ‘push’ insurance, which could be seen as a subcategory of on-demand insurance and where a technology provider sets up a platform to combine Big Data Analytics (BDA) with the management of contacts with customers.
  - <u>Preventive services in insurance</u>. Digital technologies and increasing access to data provide insurance companies with the possibility to offer different preventive services as an addition to traditional insurance cover. Such efforts could not just be beneficial for the single policyholder but also the whole economy by reducing claims and / or their costs.

2. Main points (cont.)

- **Risk and benefits for consumers and for the industry**. EIOPA has looked at potential innovation-related risks and benefits through its different work streams for customers (e.g. benefits: increased competition, and risks: lack of transparency) and for the industry (e.g. benefits: faster product development cycles, and risks: uncertainty related to new and untried technology / business models). Most of the risks identified are not new, however, the increased use of third parties, fragmentation of the value chain and digitalization in general can be seen as an amplifier of these risks.
- **Supervisory implications**. More complex value chains entail more complex supervision, focused, for instance, on the crystallisation of new risks through interactions of parties. Supervisors might need to develop knowledge, experience, data access, skillset and resources for supervising new models and technologies, causing challenges to keep up with the rapid changes.
  - Risk related to fragmentation and increased complexity. In order to make supervision more effective, supervisors need to understand the individual and collective impact of new technology-led business models/strategies.
  - Concentration risk could also increase due to the extended use of third parties, especially in the context of insurance platforms and ecosystems.
  - Specific concerns related to insurance platforms/ecosystems, platforms and ecosystems will shift value and change the nature of risk, keeping in mind that those players have the capability to scale at a far faster rate than companies could in the past.

3. Next steps

- The deadline for submission of feedback on the public consultation shall be **September 7th 2020**.

03/04/2020
Guidelines on legislative and non-legislative moratoria on loan repayments applied in the light of the COVID-19 crisis

1. Context

The outbreak of the COVID-19 pandemic and the response measures that have been adopted in many countries across the globe and in the EU, have significant economic consequences. In these circumstances, in order to minimize the medium- and long –term economic impacts, Member States have implemented a broad range of support measures including, among others, some forms of moratorium on payments of credit obligations. In this sense, the EBA has clarified a number of aspects in relation to the use of public and private payment moratoria.

In this context, the EBA has issued **Guidelines (GL) on legislative and non-legislative moratoria on loan repayments applied in the light of the COVID-19 crisis** in order to provide clarity on the treatment of the moratoria applied before 30 June 2020. In particular, these GL clarify which legislative and non-legislative moratoria do not to trigger forbearance classification, while in all other cases the assessment must be done on a case-by case basis.

2. Main points

- **Criteria for general payment moratoria**. A moratorium should be considered a general payment moratorium where all the following conditions are met:
    - The moratorium is based on the applicable national law (legislative moratorium) or on a non-legislative payment relief initiative of an institution as part of an industry moratorium scheme agreed or coordinated within the banking industry or a material part thereof, possibly in collaboration with public authorities, such that participation in the moratorium scheme is open and similar payment relief measures are taken under this scheme by relevant credit institutions (non-legislative moratorium).
    - The moratorium applies to a large group of obligors predefined on the basis of broad criteria (e.g. the exposure class, industry sector, product ranges or geographical location). The scope of application of the moratorium may be limited only to performing obligors, who did not experience any payment difficulties before the application of the moratorium, but it should not be limited only to those obligors who experienced financial difficulties before the outbreak of COVID-19 pandemic.
    - The moratorium envisages only changes to the schedules of payments for a predefined limited period of time.
    - The moratorium offers the same conditions for the changes of the payments schedules to all exposures subject to the moratorium.
    - The moratorium does not apply to new loan contracts granted after the date when the moratorium was announced.
    - The moratorium was launched in response to the COVID-19 pandemic and was applied before 30 June 2020. This deadline can be revised in the future depending on the evolution of the current situation.
- **Classification under the definition of forbearance**. The application of the general payment moratorium in itself should not lead to reclassification of the exposure as forborne (either performing or non-performing) unless an exposure has already been classified as forborne at the moment of the application of the moratorium.
- **Application of the definition of default to exposures subject to payment moratoria**. Where a general payment moratorium meets the conditions, institutions should count the days past due based on the revised schedule of payments, resulting from the application of any moratorium. In addition throughout the duration of the moratorium, institutions should assess the potential unlikeliness to pay of obligors following the end of the application of the moratoria, prioritizing the assessment of the following cases: i) where obligors experienced payment delays shortly after the end of the moratorium; ii) where any forbearance measures are applied shortly after the end of the moratorium.
- **Documentation and notifications**. Institutions applying non-legislative general payment moratorium, should notify their national competent authority (NCA). The NCAs should notify the EBA of any use of general payment moratoria in their jurisdictions and provide certain information (e.g. if it is a legislative or non-legislative moratorium or the date from which the moratorium applies).

3. Next steps

- Competent authorities must notify the EBA whether they comply or intend to comply with these guidelines, or otherwise give their reasons for non-compliance, by **3 June 2020**.

14/04/2020
- **Final draft RTS on Liquidity Horizon for the IMA**
- **Final draft RTS on Backtesting and PLA requirements**
- **Final draft RTS on Risk factor modellability**

1. Context

In January 2019, the BCBS finalised and published standards on Minimum capital requirement for market risk (revised FRTB), which replaces the previous minimum capital requirements for market risk in the global regulatory framework, implemented in the EU via the CRR. Further, in June 2019 the European Parliament (EP) and the Council issued CRR II introduces reporting requirements under FRTB IMA (June 2023) and FRTB SA (March 2021). The European Commission (EC) is expected to present a legislative proposal in June 2020 detailing how this regulation will be implemented. However, key parts of the framework relating to the FRTB revisions will be implemented through a Commission Delegated Act and EBA technical standards.

In this context, and after the publication of the consultation papers in June 2019, the EBA has published three **Final drafts on RTS on the new internal model approach (IMA) under the FRTB** in order to specify essential aspects of the IMA and contribute to a smooth and harmonised implementation of the FRTB in the EU. In particular, these documents are the Final draft on RTS on liquidity horizons, the Final draft on RTS on back-testing and profit and loss attribution (PLA) requirements and, the Final draft on RTS on criteria for assessing the modellability of risk factors under the IMA.

2. Main points

Final draft RTS on liquidity horizons for the IMA

- **Scope**. According to the CRR II, institutions are required to map each risk factor to one of the risk factor categories and to one of the risk factor subcategories listed (e.g. most liquid currencies and domestic currency, or volatility for interest rate risk factor's category) for the purpose of identifying the relevant liquidity horizon under the IMA.
- **Content**. This document specifies the following aspects:
  - Mapping of risk factors to risk factor categories and subcategories, by providing ad hoc treatments for some specific risk factors as well as a general approach for the majority of cases.
  - Definition of most liquid currencies for interest rate risk, by establishing that those currencies are defined considering the Triennial Central Bank Survey Over the Counter (OTC) interest rate derivatives turnover compiled by the Bank of International Settlements (BIS).
  - Most liquid currency pairs for FX risk, by defining them also considering the Triennial Central Bank Survey foreign exchange turnover compiled by BIS.
  - Definition of a small and large capitalisation for equities:
    - It is considered a **large capitalization** a market capitalisation equal to or greater than EUR 1.75 billion and equities in indices listed in the ESMA ITS which its components are all quoted in the EU.
    - It is considered a **small capitalization** all capitalisation that does not fall within the scope of large capitalisation.

Final draft RTS on back-testing and profit and loss attribution (PLA) requirements

- **Scope**. According to the CRR II, credit institutions should use an IMA that is reliable in determining capital requirements relative to the Profit & Loss (P&L) of the institution. To this end, two ways of assessing that a model is reliable are the regulatory backtesting programme and the PLA test.
- **Content**. This document specifies the following aspects:
  - Definition of actual and hypothetical P&L, for the purpose of both backtesting performed at trading desk level and backtesting performed on the portfolio of all positions attributed to these trading desks.
  - The PLA test, by providing:
    - The **criteria** ensuring that theoretical changes in a trading desk portfolio's value are sufficiently close to the hypothetical changes.
    - The **consequences** for an institution with one (or multiple) trading desk(s) with theoretical and hypothetical changes in the portfolio(s) value(s) not sufficiently close.
    - The **frequency** at which the P&L attribution test should be performed.
    - The **definition** hypothetical P&L and risk-theoretical P&L (RTPL).
    - The way institutions using the **internal model** for some desks have to aggregate the total own funds requirement for market risk of all their trading book positions and non-trading book positions bearing FX or commodity risk.

2. Main points (cont.)

Final draft RTS on criteria for assessing the modellability of risk factors under the IMA

- **Scope**. According to the CRR II, institutions shall assess the modellability of all the risk factors of the positions assigned to the trading desks for which they have been granted permission or are in the process of being granted such permission.
- **Content**. This document specifies the following aspects:
    - The methodology of the modellability assessment of a risk factor by:
        - Identification at a minimum of **24 verifiable prices** which are representative for the risk factor over the preceding 12-months, without any period of 90 days or longer with less than four verifiable prices which are representative for the risk factor.
        - Identification at a minimum of **100 verifiable prices** which are representative for the risk factor over the preceding 12-months.
    - The requirements a price should satisfy to be verifiable and the representativeness of verifiable prices for risk factors.

3. Next steps

- The adoption of these RTS is expected, under CRR II, to trigger the **three-year period** after which institutions with the permission to use the FRTB internal models are required to calculate their own funds requirements for market risk with those internal models.

04/05/2020

- **Final RTS on prudent valuation under CRR**
- **EBA statement on additional supervisory measures in the COVID-19 pandemic**
- **EBA Statement on the application of the prudential framework on targeted aspects in the area of market risk in the COVID-19**

1. Context

Since the beginning of March, various agencies at both the local and supranational levels have issued measures to mitigate the possible impact that the COVID-19 could have on the economy. In Europe, the European Central Bank (ECB) has launched a new temporary asset purchase programme of private and public sector securities called the Pandemic Emergency Purchase Programme (PEPP) of €750 billion and it allow banks to temporarily operate below P2G, the CCB and the LCR requirement. Furthermore, the EBA has decided to postpone the EU-wide stress test exercise to 2021 and it will carry out an additional EU-wide transparency exercise in 2020. In addition, the ECB has introduced supervisory flexibility regarding the treatment of non-performing loans (NPLs), recommended banks to avoid procyclical assumptions in their models to determine provisions on IFRS 9 and postpone some inspections.

In this context, the EBA has issued **Guidance on the use of flexibility in relation to COVID-19 and attention to risks** in order to provide further clarity on how additional flexibility will guide supervisory approaches in relation to market risk, the Supervisory Review and Evaluation Process (SREP), recovery planning, digital operational resilience and ICT risk and securitisation.

2. Main points

Final RTS on prudent valuation under CRR

- **Higher value aggregation factor**. Increase of the aggregation factor applicable to the core approach from 50% to 66% for the present period of extreme volatility in market prices and unprecedented systemic impact. While using the 66% aggregation factor, institutions are required to continue computing additional valuation adjustments (AVAs) in accordance with the requirements and with the principles prevailing before the crisis.

EBA statement on additional supervisory measures in the COVID-19 pandemic

- **SREP**. Due to the need of a pragmatic and effective SREP, the 2020 exercise will entail a risk-driven supervisory assessment focusing on the most material risks and vulnerabilities driven by the crisis based on most recent information received by supervisors. In addition, for some SREP elements, considered not directly affected by the crisis or where no new relevant information is available, the previously assigned supervisory assessment could be maintained. The EBA emphasises that drawing supervisory conclusions on the viability of institutions and their ability to meet the capital and liquidity requirements is paramount.
- **Recovery planning**. Competent authorities (CAs) should monitor that recovery plans are updated regularly and on an ad-hoc basis in order to be implemented timely and effectively if needed, in particular following changes with potential material impact on the plans or where material deficiencies have been identified. Some elements of recovery plans could be under operational relief in the 2020 recovery planning cycle (e.g. business-as-usual governances, description of the institution/entities covered by a group recovery plan, description of critical functions and core business lines, as well as their mapping, or communication plan).
- **Digital operational resilience**. The EBA calls on financial institutions:
  - To ensure an adequate internal governance, internal control framework, appropriate ICT capacity and security risk management, effective crisis communication measures and business continuity plans are up to date and adapted.
  - To stay vigilant in their cyber security monitoring and measures.
  - To monitor and seek assurance on the level of compliance of their third party providers.
- **Securitisation**. EBA clarifies certain ambiguities arising from the application of general payment moratoria. In particular, this statement provides clarifications on the application of the Guidelines on COVID-19 in relation to: i) securitised exposures, with regard to traditional securitisations and synthetic securitisations, and securitisation positions; and ii) the implicit support in the event of a payment moratorium.

2. Main points (cont.)

EBA Statement on the application of the prudential framework on targeted aspects in the area of market risk in the COVID-19

- **FRTB-SA reporting requirements**. EBA proposes to postpone the FRTB-SA reporting requirement under the CRR II until September 2021 in order to alleviate any potential operational burden.
- **Implementation of phase V and VI of the implementation of the Joint ESAs RTS on non-cleared OTC derivatives**. EBA proposes to postpone one year the final two implementation phases of the margin requirements for non-centrally cleared derivatives in order to free up operational capacity for banks to respond to the COVID-19 crisis.
- **Limitation of multiplication factors under internal models approach (IMA) for market risk**. EBA proposes that CAs may reduce in individual cases the first addend of the VaR multiplier to the minimum of 3, and limit the second addend to that resulting from overshootings under hypothetical changes, under certain conditions.

3. Next steps

- The Final RTS on prudent valuation under CRR will enter into force **on the day following that of its publication** in the Official Journal of the European Union (OJEU).
- The aggregation factor shall be set to 66% from the date of entry into force of this Regulation until **31 December 2020** with a transitional nature.

11/05/2020

Final report on the Draft implementing technical standards (ITS) on specific reporting requirements for market risk

1. Context

CRR2 introduces the first elements of the Fundamental Review of the Trading Book (FRTB), initiated by the Basel Committee on Banking Supervision (BCBS), into the prudential framework of the EU. Despite not yet being binding in terms of own funds requirements, the framework is implemented by means of a reporting requirement, constituting the first step towards the full implementation of the FRTB framework in the EU.

In this context, and after the publication of the Consultation Paper (CP) on November 2019, the EBA has published the **Final report on the Draft (ITS) on specific reporting requirements for market risk** which includes a thresholds template, providing insights into the size of institutions' trading books and the volume of their business subject to market risk, and a summary template, reflecting the own funds requirements under the alternative standardised approach for market risk (MKR-ASA).

Furthermore, along with the publication of the Final ITS, the EBA has also published the Annexes with the reporting templates.

2. Main points

- **Reference dates and remittance dates for reporting**.
    - Institutions shall submit information to competent authorities (CAs) with a quarterly frequency as this information stands on the 31 March, 30 June, 30 September and 31 December.
    - Institutions shall submit information to CAs by close of business of the following remittance dates: 12 May, 11 August, 11 November and 11 February.
- **Reporting on thresholds**. These Final ITS establishes that Institutions have to report information on the size of their trading book and the size of their on- and off-balance sheet business subject to market risk on an individual basis or consolidated basis, due to what CRR states.
- **Reporting on the Alternative Standardised Approach (ASA)**. These Final ITS introduces that institutions shall submit on an individual or consolidated basis the information regarding own funds in accordance to the specific reporting requirements for market risk ASA.
- **Data precision and information associated with submissions**. These Final ITS establishes that institutions have to submit the information in the data exchange formats and representations specified by CAs and respecting the data point definition of the data point model, among other specifications.

3. Next steps

- These ITS shall enter into force **20 days after its publication** in the Official Journal of the European Union (OJEU).
- These ITS will apply from **1 September 2021**.
- The EBA will also **develop the data-point model (DPM), XBRL taxonomy and validation rules** based on the final draft ITS and publish them soon.

25/05/2020

Guidelines on the determination of the weighted average maturity (WAM) of the contractual payments due under the tranche in accordance with point (a) of Article 257(1) of Regulation (EU) No 575/2013

1. Context

Regulation on Capital Requirements Regulation (CRR) as amended by Regulation (EU) 2017/2401 has introduced tranche maturity as an additional parameter in the CRR formulae to calculate the risk weights of securitisation positions. Institutions using the internal ratings-based approach (SEC-IRBA) or the SEC-ERBA are now required to include this parameter when calculating the risk-weighted exposure amounts applicable to their securitisation positions. According to CRR, two alternative approaches may be applied when determining the maturity of a tranche: (i) the weighted average maturity (WAM) of the contractual payments due under the tranche or (ii) the final legal maturity of the tranche. In both cases, the tranche maturity is subject to a floor of 1 year and a cap of 5 years. The choice between the WAM approach and the final legal maturity approach is left to the discretion of the institutions.

In this context, the EBA has issued **Guidelines on the determination of the WAM of the contractual payments due under the tranche in accordance with point (a) of Article 257(1) of CRR** with the aim to provide guiding principles for the institutions that opt for the use of the WAM approach instead of the final legal maturity approach when calculating the risk-weighted exposure amounts for the specific purpose of determining the capital requirement of a securitisation position.

2. Main points

- **Contractual payments**. Given the different source of cash flows generated within traditional and synthetic securitisations, the guidelines provide two different methodologies for the purpose of calculating the WAM of a tranche:
    - In the case of <u>traditional securitisation</u>, the contractual payments due under the tranche should be understood as the combination of: (i) the contractual payments of the underlying exposures payable to the securitisation special purpose entity (SSPE) and (ii) the contractual payments payable by the SSPE to the tranche holders.
    - In the case of <u>synthetic securitisations</u>, the contractual payments due under the tranche should be understood as the sum of: (i) the contractual payments of the premia payable by the originator to the protection provider and (ii) the contractual payments received by the originator from the borrowers of the underlying exposures that are allocated to the reduction of the outstanding amount of the tranche.
- **Data and information**. The institution could use the WAM approach under the following requirements regarding data and information:
    - <u>Use of internal and external data</u>: institutions should use internal data on the underlying portfolio of the securitised exposures, where they are the servicer of the securitised exposures. On the contrary, institutions are not the servicer of the securitised exposures and does not have access to internal data, they should only use the sources of external data set out in the GL (e.g. data provided by the originator, SSPE, etc.)
    - <u>Data on the underlying pool of exposures</u>: for using this approach, the data necessary to apply the asset model should be complete. Where the data necessary to apply the asset model are incomplete, institutions should make the necessary adjustments as set out in the GL, except that they do not have the data related to current principal balance or the currency denomination of the underlying exposures because, in such a case, they should not use the WAM approach.
    - <u>Reliable information for the calculation of contractual payments</u>: the transaction documentation should be the main source of information, especially for investor institutions have only the former information and the data provided by servicer institution. However, the servicer has all information related to underlying exposures for the calculation of contractual payments.

2. Main points (cont.)

- **Asset model**:
  - General provisions: institutions should determine all contractual payments payable to the SSPE generated by the portfolio during period t with the asset model. Institutions should use as key parameters all relevant information that may affect those payments, including the principal, interest and fees, and determine payments on a loan-by-loan basis.
  - Methodology for performing underlying exposures: this GL set up the requirements for the calculation of payments of principal and interest taking into account terms and conditions agreed and the amortization method. Additionally, other statements are the treatment of revolving periods, the application of prepayment regarding the historical information or the assumption of future default exposures equal to zero at the time of the WAM calculation.
  - Methodology for non-performing exposures: the principal and interest payments of exposures not performing at the time of the calculation of the WAM should be assumed to be equal to zero throughout the life of the securitisation. In addition, this GL also set up recovery rate and recovery-timing assumptions.
- **Liability model**:
  - General provisions: all the input variables used in the liability model should accurately take into account the contractual terms and conditions of the transaction set out in the securitisation transaction documentation. Further, it should be taken into account all relevant information on the tranches (e.g. final legal maturity, the payment frequency, the interests, etc.), the key structural features such as the priority of payments and related triggers, and hedging arrangements, structural protection mechanisms, costs and fees.
  - Determination of the total amount payable by the SSPE and allocation of the contractual payments among the tranche holders: the total amount payable is calculated by asset model and adjusted to account for any cash flows coming from the hedging arrangements and structural protection mechanisms and the fees and costs to be incurred by the SSPE. According to allocation of the contractual payments among the tranche holders, it has to be done considering contractual terms specially on priority of payment, amortization profile and other triggers based on the performance of the underlying assets.
- **Methodology for determining the contractual payments due under the tranche in case of synthetic securitisations**. The GL pointed out that institutions should determine the contractual payments payable to the originator by the borrowers of the underlying exposures by applying the same methodology as for the performing exposures in traditional securitisations. In addition, institutions should allocate the previous contractual payments to the tranches by reducing their outstanding amounts, in accordance with the allocation set out in the terms and conditions of the transaction. The GL also set up other statements in relation with the amortization method or taking into account optional features such as clean-up call or early redemption of the notes before the securitised exposures are fully amortised.
- **Monitoring and implementation of the WAM approach**. The models used for the application of the WAM approach should be monitored and updated whenever necessary to account for any variations of the key parameters (e.g. the outstanding note balance or the performance of the transaction) and any other material changes to the transaction such as the restructuring of notes or of the underlying exposures. Finally, the annual review of models by independent auditor (internal and external) should at least assess the quality of the process, the accuracy of the process to gather the key parameters with regard to the terms and conditions of the transaction documentation and the correctness of the overall calculation.

3. Next steps

- These guidelines apply from **1 September 2020**.

25/05/2020

Final Report on the Guidelines on credit risk mitigation (CRM) for institutions applying the IRB approach with own estimates of Loss Given Defaults (LGDs)

1. Context

In March 2018 the EBA published a Report on the CRM framework which carried out a mapping of relevant provisions to the corresponding credit risk approach, detailing the provisions for the techniques, eligibility and methods of CRM available to institutions under the Standardised Approach (SA) and the Foundation-IRB Approach (F-IRB).

In this context, the EBA has published a **Final Report on the Guidelines (GL) on CRM for institutions applying the IRB approach with own estimates of Loss Given Defaults (LGDs)**. In particular, these GL provide additional clarity on the application of the CRM approach for advanced internal rating based approach (A-IRB) institutions, focusing on clarifying the application of the current CRR provisions for the eligibility and methods of different CRM techniques, i.e. funded credit protection (FCP) and unfunded credit protection (UFCP). This is supplemented by additional detailed guidance on eligibility requirements and treatment of FCP or UFCP.

2. Main points

- **General provisions**. For exposures to which an institution applies the SA and the F-IRB approach the CRM techniques may be recognised in accordance with the chapter related to CRM of the CRR (Part Three, Title II, Chapter 4), whereas for exposures to which an institution applies the A-IRB approach the CRM techniques may be recognised in its chapter (Part Three, Title II, Chapter 3). In this sense, these GL clarifies that the requirements stablished in the CRM chapter will only apply to exposures treated under A-IRB where it is explicitly cross-referenced. In particular:
    - The CRM effects of <u>master netting agreements (MNA) and on-balance sheet netting (OBSN)</u> may be recognised only through adjustment of the exposure value subject to all the requirements established in the CRM chapter (including eligibility requirements and methods).
    - For the purpose of estimating LGD, the <u>references to 'collateral' should be understood as references to FCP other than MNA and OBSN</u>. In this sense, as MNA and OBSN are already recognised in the adjustment of the exposure value, their effect should not be recognised again through LGD.
    - The <u>method for the recognition of UFCP by institutions using the A-IRB approach has been specified in the CRR for both retail and non-retail exposures</u>. UFCPs may be recognised by adjusting PD or LGD estimates according to the CRR and under the constraint that the resulting adjusted risk weight should not be lower than the institution would assign to a comparable direct exposure to the guarantor (the risk weight floor). Alternatively, where institutions meet the <u>CRM chapter requirements for UFCP</u>, they may recognize the effects of the UFCP, the 'double default' formula applicable to exposures under both the F-IRB and A-IRB approaches.
    - <u>Credit insurance</u> may be recognised as a guarantee (or a credit derivative) where it effectively functions in an equivalent manner.
    - The treatment of <u>rating of third parties</u> is not considered a method for recognizing CRM, since it relates to a type of contractual support provided by a third party to the obligor.
- **Eligibility requirements**.
    - <u>Eligibility requirements for FCP</u>. With regard to FCP the CRR establishes that, if collateral is taken into account in the LGD estimation, institutions should set internal requirements for collateral management, legal certainty and risk management that are generally consistent with the covered in the CRM chapter in the CRR, but there is a lack of guidance on the concept of general consistency. In this regard, these GL provide the following two clarifications:
        - The **general eligibility principles on legal certainty and collateral valuation** form a minimum set of eligibility requirements that is meant to ensure that all collateral types are subject to the assessment of legal certainty (e.g. institutions should establish internal requirements which ensure that the collateral agreement is legally effective and enforceable) and collateral valuation applicable to all types of collateral used in the LGD estimation (e.g. institutions should specify in their internal policies the rules governing the revaluation of the collateral).
        - A **mapping to legal certainty and collateral valuation** is addressed in this GL by providing specific minimum criteria that entities must consider for a broad categories of collateral (financial, real estate, payment, physical collateral and other collateral).
    - <u>Eligibility requirements for UFCP</u>. The CRR establishes legal certainty requirements for the assessment of guarantees and credit derivatives with the aim to ensure that the guarantees are binding on all parties and that the creditor has the power to realise the guarantee.

2. Main points (cont.)

- **The Effects of CRM**. These GL provide guidance on how institutions may recognise the CRM effects of UFCP and FCP such as MNA and OBSN, even so they do not do not prescribe any specific methodology to be used. However, it is considered appropriate to specify certain principles that should be adhered to regardless of the methodology that is chosen.
    - The effects of FCP. These GL clarify that for the purposes of recognising the CRM effects of MNA and OBSN, institutions should use the fully adjusted exposure value (E*). Furthermore, for the purposes of LGD estimation institutions should calculate the realised LGD for each exposure that is covered by a MNA or OBSN as the ratio of the economic loss to the outstanding amount of the credit obligation at the moment of default calculated as E*. Institutions should calculate the economic loss on the basis of this outstanding amount, and no cash flows from netting should be included as recoveries after default in the economic loss. For the purposes of recognising the credit risk mitigation effects of collateral, the criteria specified by institutions for adjusting LGD estimates should:
        - **Not lead to a decrease in the value of the LGD estimates when the collateral** is a liability of the obligor that ranks either lower than or in the same conditions with the obligation the obligor has to the institution.
        - For other than first rank claims, **appropriately consider the effects on LGD estimates** of the subordinated position of the institution in relation to the collateral.
        - For other physical collateral, **appropriately consider the likely location of the collateral** during the lifetime of the loan and the influence it may have on the potential inability of institutions to expeditiously gain control of their collateral and liquidate it.
    - The effects of UFCP. Institutions may recognise the CRM effects of UFCPs using one of the following methods:
        - Adjustment of **PD or LGD estimates** on the basis of the criteria specified by institutions. In this sense, the CRR specifies how institutions may adjust their risk parameters in order to recognize the effects of guarantees and credit derivatives.
        - If the institution applies the SA for **comparable direct exposures to the guarantor**, and does not recognise the credit risk mitigation effects of the UFCP in the PD and LGD estimates, it may use the risk weight applicable under the SA, i.e. the substitution of risk weight approach.
        - Calculation of the **risk-weighted exposure amount**, i.e. the double default treatment.

3. Next steps

- These GL will apply from **1 January 2022**. Institutions should incorporate the requirements of these guidelines in their rating systems by that time, but competent authorities may accelerate the timeline of this transition at their discretion.

25/05/2020

Report on STS Framework for Synthetic Securitisation

1. Context

In December 2015 the EBA issued the Report on Synthetic Securitisation which contained an analysis and market practice assessment of the synthetic securitisation market. In this report, the EBA proposed extending the simple, transparent and standardised (STS) synthetic securitisation framework to fully cash-funded credit protection provided by private investors and amending the criteria determining the eligibility for STS preferential treatment for balance-sheet synthetic securitization. Subsequently, in September 2017, the EBA published the EBA Discussion Paper on Significant Risk Transfer (SRT) in Securitisation, which set out detailed proposals to strengthen the regulation and supervision framework of SRT associated with the traditional and synthetic securitisation, as well as it proposed a number of recommendations for the harmonisation of structural features widely present in synthetic and/or traditional securitisation. Finally, the EBA issued a discussion paper on the STS framework for synthetic securitization in September 2019 for a 2-month consultation period and as a result, there was a clear request from all stakeholders for the introduction of a preferential capital treatment of the STS synthetic securitisation, in the belief that the impact of STS synthetic securitisations would be limited if no differentiated capital treatment were introduced.

In this context, as a response to the mandate assigned to the EBA in the Securitisation Regulation, the EBA has issued a **Report on STS Framework for Synthetic Securitisation** with the aim of setting out an extensive analysis of the synthetic securitisation market developments and trends in the EU, including data on the historical default and loss performance of the synthetic transactions, both before and after the financial crisis (up until the end of 2018). In addition, this document examines the rationale of the STS synthetic product and assesses the positive and negative implications of its possible introduction.

2. Main points

- **Market developments and trends**. The development of the synthetic securitisation market in the EU can be divided into two episodes, before and after the financial crisis, with a number of significant differences between these two periods. A summary of the main changes is provided below.
    - While the majority of the transactions in the pre-crisis period were arbitrage transactions, after the crisis the European market was formed almost exclusively by balance-sheet transactions.
    - In contrast to the pre-crisis period when a substantial proportion of synthetic securitisation transactions were public and rated, since the financial crisis the deals have mostly been executed privately/bilaterally, without any involvement of the credit rating agencies.
    - With regard to originators' involvement, whereas, before the crisis, originators used to place super senior tranches (typically the largest tranches of a transaction in terms of volume), after the transition from Basel I and Basel II, they started placing only mezzanine or mezzanine/first loss (smaller) tranches.
    - With regard to the credit protection mechanism used, unfunded credit protection was the prevalent credit protection mechanism applied before the financial crisis, whereas funded protection became the dominant mechanism after the crisis.
- **Rationale for the development of the STS framework for synthetic securitisation**. The last trends suggest that there is sound appetite and potential for the growth of the synthetic market on the originator side and it shows that it has been overcome the stigma that has been associated with synthetic securitisation during the post-crisis period. Consequently, it arises the need of setting up a STS framework for synthetic securitisation, which should be adapted to the specificities of this type of securitisation. In particular, the counterparty credit risk potentially arising in the credit protection contract is the only element of complexity that is specific to synthetic securitisation. Counterparty credit risk may arise for:
    - The originator of the transaction (the protection buyer) because of the risk of default (or other events) in relation to the investor (the protection seller), resulting in a lack of credit protection.
    - The investor (protection seller) because of the risk of default (or other events) in relation to the originator, resulting in missed premium/fee payments by the originator and, if applicable, the loss of collateral posted by the investor to the originator or to a third party to fund the credit protection.

  Finally, the EBA assesses the pros and cons of the development of an STS synthetic product and mainly points out the following implications:
    - Pros: (i) increased transparency of the product; (ii) increased relevance of the product resulting from some advantages compared with traditional securitisation; (iii) further standardisation of the product and opening of the market for smaller originators and investors; (iv) potential positive impact on the financial and capital markets, financial stability and the real economy; among others.
    - Cons: (i) it could be perceived as a high-quality label by less sophisticated market players; and (ii) it could lead to less issuance of traditional STS securitisations.

2. Main points (cont.)

- **Criteria for STS synthetic securisation**. The EBA sets out the proposed criteria in order for synthetic securitisations to fall under the STS synthetic securitisation framework, with the aim of ensuring an appropriate level of consistency. The STS synthetic securitisation framework follow the structure of the STS criteria for traditional non-asset backed commercial paper (ABCP) securitisation, that were introduced in the new EU securitisation framework in 2018, and include some specifications. EBA recommends that, for any synthetic securitisation to be eligible for the status of 'STS', it shall comply with the criteria on:
    - Simplicity in the requirements for balance-sheet synthetic transactions regarding the credit risk mitigation rules laid down in CRR, representations and warranties or determining their eligibility for protection under the credit protection agreement establishing the synthetic securitisation, among others.
    - Standardization in the risk retention requirements, the transaction documentation, the identification of reference register or timely resolution of conflicts between investors, among others.
    - Transparency in the data on historical default and loss performance, external verification of the sample of the underlying exposures or environmental performance of assets, among others.
    - Specific to synthetic securitisation: credit protection payments or eligible credit protection agreement, counterparties and collateral, among others.
- **Framework for a differentiated regulatory treatment of STS synthetic securitization**. The EBA recommends a differentiated regulatory treatment between the STS and non-STS balance-sheet synthetic securitization. This differentiated regulatory treatment should consist of an adjustment of the prudential floor for the senior tranche retained by the credit institutions to a level applicable under the STS traditional framework and corresponding adjustments of the risk weights for the senior tranche as applicable under the STS traditional framework. The differentiated regulatory treatment should be subject to the following conditions:
    - The securitisation should meet the requirements on simplicity, standardisation, transparency and the criteria specific to synthetic securitization.
    - The securitisation should meet the criteria under CRR II.
    - The securitisation should be a balance-sheet synthetic securitisation.
    - The position should hold (retained) by the originating credit institution.
    - The position qualifies as the senior securitisation position.

  However, the EBA points out certain concerns on the introduction of a differentiated regulatory treatment of the STS synthetic securitisation at the current stage:
    - Limitations with the data and transactions analysed on the report, concerning the scope, representativeness and limited time horizon of the data, which do not cover the full economic cycle.
    - Limited experience with the STS framework, which entered into force in January 2019.It could lead to a potential overuse of synthetic securitisation and provide an incentive for banks to implement a potential large-scale substitution of regulatory capital through risk mitigation strategies (i.e. RWA reductions), which could result in banks' increased leverage if not properly monitored and supervised.

25/05/2020

- **Report on competent authorities' approaches to tackling market integrity risks associated with dividend arbitrage trading schemes (Cum-Ex)**
- **Action plan on dividend arbitrage trading schemes ("Cum-Ex/Cum-Cum")**

1. Context

In November 2018, EBA and ESMA conducted an inquiry into dividend arbitrage trading schemes (e.g. cum-ex, cum-cum) in order to assess potential threats to the integrity of financial markets and to national budgets; to assess whether there were breaches of either national or Union law; to assess the actions taken by financial supervisors in Member States; among others. In December 2018, the EBA's Board of Supervisors (BoS) discussed the extent to which such schemes are relevant from a supervisory perspective and consequently, the EBA considered that dividend arbitrage trading schemes may be relevant from two specific perspectives: (i) an anti-money laundering and countering the financing of terrorism (AML/CFT) perspective and (ii) the more general governance perspective of prudential supervision. In 2019, EBA decided to carry out two surveys of competent AML/CFT authorities and prudential supervisors. Their aims are to gain an understanding of whether dividend arbitrage trading schemes were treated as tax crimes and to understand how financial institutions' involvement in such schemes complied with the prudential framework.

In this context, EBA has published the **Report on competent authorities' approaches to tackling market integrity risks associated with dividend arbitrage trading schemes** and the **Action plan on dividend arbitrage trading schemes ("Cum-Ex/Cum-Cum")**, with the aim of setting out what competent AML/CFT and prudential authorities should do to mitigate the risks associated with dividend arbitrage trading schemes and posing an action plan to enhance the future framework of prudential and AML requirements covering such schemes.

2. Main points

- **EBA's expectations of AML/CFT and prudential authorities**. The EBA's inquiry concluded that national authorities do not share the same understanding of dividend arbitrage trading schemes and therefore, the EBA set out the following expectations of credit institutions and national authorities under the current regulatory framework:
    - Competent prudential authorities should <u>take information received from AML/CFT supervisors into account when performing their reviews of institutions' internal controls and internal governance arrangements</u>.
    - AML/CFT supervisors should <u>reach out to local tax authorities to establish whether certain dividend arbitrage trading schemes constitute tax crimes</u>, and, if so, inform competent prudential authorities for inspections.
    - <u>Cooperation and information exchange between all relevant authorities</u> and prudential and AML/CFT competent authorities are recommended.
    - Taking a <u>comprehensive view of the risks highlighted by dividend arbitrage trading cases</u>, which may give rise to questions about the adequacy of financial institutions' internal controls, internal governance arrangements and their anti-money laundering systems and controls.
    - Supervisory colleges discussing such schemes with a view to <u>establish whether potential joint supervisory activities in case of concerns should take place</u>.

2. Main points (cont.)

- **Action plan**. The EBA published a 10-point action plan, which seizes on the opportunities afforded by recent legislative changes in the EU Capital Requirements Directive (CRDV) and the EBA's AML/CFT mandate in the EBA Regulation, and which will be implemented in 2020 and 2021. The 10-point action plan comprises:
  - Amend its prudential Guidelines on Internal Governance, in order to ensure that the management body develop, adopt, adhere to and promote high ethical and professional standards.
  - Amend its prudential Guidelines on the Assessment of the Suitability of Members of the Management Body and Key Function Holders in order to ensure that tax offences, including where committed through dividend arbitrage schemes, are considered in the assessment.
  - Amend its prudential Guidelines on Supervisory Review and Evaluation Process (SREP) with regard to the section on governance, in order to include an appropriate reference to tax crimes, such as dividend arbitrage schemes, to reflect the relevant amendments in the guidelines on internal governance and fit and proper assessments.
  - Monitor, in the context of the preparation of the Supervisory Convergence Report due in Q2 2021, how prudential colleges have followed up, in a risk-based approach, on guidance embedded in the 2020 convergence plan.
  - Assess the responses the EBA will receive to its ongoing consultation on its Guidelines on ML/TF risk factors to identify whether the existing references to tax crimes contained in the draft Guidelines are sufficient to address the risks arising from dividend arbitrage trading schemes.
  - Amend its Guidelines on Risk-Based AML/CFT Supervision under AMLD4 to include additional requirements on how AML/CFT competent authorities should, in a risk-based approach, identify, assess and address ML/TF risks associated with tax crimes such as illicit dividend arbitrage schemes.
  - Amend its biennial Opinion on ML/TF Risks under AMLD4, by assessing ML/TF risks associated with tax crimes in greater detail than the previous version the Opinion already did.
  - Continue to allocate, in its ongoing multi-annual programme of staff-led AML/CFT implementation reviews of AML/CFT competent authorites, explicit time to authorities' handling of ML/TF risks associated with tax crimes, where this risk is significant.
  - Monitor discussions in AML/CFT colleges, and intervene actively as necessary, to ensure that AML/CFT colleges for financial institutions that are exposed to significant ML/TF risks associated with tax crimes, address such risks.
  - Carry out an inquiry of the EBA Regulation into the actions taken by financial institutions and national authorities within their competencies to supervise compliance with requirements applicable to dividend arbitrage trading schemes.

3. Next steps

- The 10-point Action plan on dividend arbitrage trading schemes will be **implemented throughout 2020 and 2021**.
- The **EBA** have provided the **following tentative deadlines**:
  - Q4 2020: Report on the functioning of AML/CFT colleges.
  - Q1 2021: Guidelines on internal governance, Guidelines on the assessment of the suitability of members of the management body and key function holders and the Opinion on ML/TF risks.
  - 2Q 2021: the Supervisory Convergence Report, the amended Guidelines on risk-based supervision and the report of implementation reviews of AML/CFT.
  - 4Q 2021: the amended draft on Guidelines Supervisory Review and Evaluation Process (SREP) (some elements may be included in an Opinion on the prudential treatment of ML/TF risks under SREP to be published by Q4 2020)

01/06/2020

Consultation Paper (CP) on Draft Regulatory Technical Standards (RTS) for the contractual recognition of stay powers under Bank Recovery and Resolution Directive (BRRD)

1. Context

Directive (EU) 2019/879 of the European Parliament and of the Council of 20 May 2019 amended Directive 2014/59/EU by introducing, amongst other, certain safeguards in order to enhance effective resolution execution in relation to financial contracts subject to third-country law in the absence of a statutory cross-border recognition framework, which ensures the effectiveness of the contractual recognition of stay powers by a Member State's resolution authority. This amendment also align the BRRD with the relevant international standards for cross-border effectiveness of resolution actions such as the Financial Stability Board's 'Key Attributes of Effective Resolution Regimes for Financial Institutions', and 'Principles for Cross-border Effectiveness of Resolution Actions'.

In this context, the EBA has published a **CP on draft RTS for the contractual recognition of stay powers under BRRD** with aim of complying with the Article 71a(1) of the BRRD, which set up that the EBA shall prepare this RTS to determine the content of the contractual term to be included in financial contracts, so that the parties recognize that the contract may be subject to the exercise of the powers of the resolution authorities to suspend or restrict the rights and obligations established in BRRD.

2. Main points

- **Contents of the contractual term**. The contractual term in a relevant financial contract governed by third country law shall include all of the following terms:
    - Acknowledgement and acceptance by the parties that the contract may be subject to the exercise of certain powers by a resolution authority to suspend or restrict rights and obligations arising from such a contract.
    - Description of the powers of the relevant resolution authority according to the BRRD.
    - Recognition by the parties that they are bound by the effect of an application of the powers and requirements referred in the previous point and by the requirements of exclusion of certain contractual terms in early intervention and resolution. This powers are specifically:
        - The suspension of any payment or delivery obligation.
        - The restriction of enforcement of any security interest.
        - The suspension of any termination right under the contract.
    - Acknowledgement and acceptance by the parties that no other contractual term impairs the effectiveness and enforceability of this contractual terms, and that the contractual term is exhaustive on the matters described therein notwithstanding any other agreements, arrangements or understandings between the counterparties relating to the subject matter of the relevant agreement.
    - Acknowledgement of the parties that such contractual term is subject to the law of a Member State.
- **Impact assessment**. The EBA concludes that it is necessary to specify the conditions to be included in the contract term to avoid the following problems: (i) the lack of definition of the mandatory contents of the contractual term may lead to reduce the effectiveness of the inclusion of the term as regards financial instruments governed by the law of a third country; (ii) the absence of an appropriate level of convergence and uneven playing field between institutions, implying an heterogeneous application in the different jurisdictions.

3. Next steps

- The deadline for submitting comments is the **15th of August 2020**.

01/06/2020

Preliminary analysis of impact of COVID-19 on EU banks

1. Context

The outbreak of COVID-19, which has hit Europe particularly hard, has resulted not only in a huge health crisis, but also in enormous economic challenges. Gross domestic product (GDP) is expected to contract significantly in EU economies and worldwide. Nevertheless, banks entered the COVID-19 crisis in better shape than they did in previous crises. Compared with the Global Financial Crisis in 2008, banks now hold larger capital and liquidity buffers. However, vulnerabilities persist in several areas. Since Q4 2019, profitability levels have remained subdued amidst low interest margins and the challenges for banks to reduce their operating expenses, as many banks do not earn their cost of equity.

In this context, the EBA has published a **Preliminary analysis of impact of COVID-19 on EU banks** mainly based on supervisory reporting data submitted by EU banks until the end of April, although some of the information is previous to that date. The EBA points out that given the uncertainty of the impact from the crisis on the economy and some of the assumptions made, the estimates in this note are preliminary and should be interpreted with caution. Additionally, the EBA has also conducted a sensitivity analysis for the potential impact of a decrease in banks' revenues due to the net interest income (NII) potentially coming under pressure.

2. Main points

- **External environment**. The slowdown in economic activity, which will led to an expected decrease in the EU's GDP, is strongly affecting financial markets. The most affected services subsectors are those related to tourism as well as employment services and food and beverage services, whereas telecommunication and IT services are the least affected subsectors. Public authorities are lifting social distancing restrictions at a very gradual pace. However, in the absence of an effective vaccine, GDP might take much longer than initially expected to return to its pre-COVID level, especially if there are second or further waves of the virus.
- **The EU banking sector before the crisis**. Following the global financial crisis, EU banks improved their risk profile and the asset quality also improved. Banks face the COVID-19 crisis in a better liquidity position not least thanks to the implementation of the liquidity coverage ratio (LCR). In the current crisis, liquidity buffers will be important not only to enable banks to weather the storm, but also to support households and companies through the pandemic and to kick-start the economy as soon as the virus is effectively contained.
- **Operational resilience and contingency measures**. The most urgent concern for banks was to ensure that they could operate unimpeded and provide their essential services:
    - Banks across Europe have enacted their contingency plans to limit the impact of the crisis on business continuity, including the set-up of ad-hoc crisis units. Contingency plans include the introduction of extended remote working for staff and encourage customers to use digital and remote business channels.
    - Advanced digitalisation, increased automation and the use of ICT solutions have contributed considerably to alleviation of the pressure and the impact of the crisis on banks' operations. No major disruptions, outages or ICT security-related incidents clearly linked to the COVID-19 crisis have been reported, and only a small number of smaller incidents.
    - Operational risks remain elevated, and the crisis has exposed some challenges at banks as volumes of some transactions have increased while resources have been temporarily strained. Some of the challenges are related to providing the infrastructure required to enable staff to work remotely and with the outsourcing of support functions.
    - The response of regulators as well as competent and resolution authorities to mitigate the impact of the virus outbreak on the banking sector aimed to support banks' focus on key operations, and to alleviate operational challenges banks face in the crisis. The measures taken and proposed aim to provide relief in three main areas: operational capacities, capital and liquidity, and asset quality.

2. Main points (cont.)

- **Assets' composition and asset quality**. In Q4 2019, EU banks reported EUR 23.7tn of total assets. The two largest components were loans and advances (66%) and debt securities (13%). In 2019, banks continued increasing their exposures towards non-financial corporation (NFCs) and households (+5%), both of which grew significantly more than in previous years.
  - <u>Unsecured exposures might face particular stress</u>. In recent years, banks have significantly increased their exposures towards riskier segments, such as SMEs and consumer credit, however, the composition of loans and advances differs widely across countries.
    - **Uncollateralised portfolios presumably bear higher risk and might suffer a faster asset quality deterioration**, but it remains to be seen how the COVID-19 crisis will affect the value of the collateral underlying collateralised exposures (e.g. real state prices).
    - **The commercial real estate (CRE) segment might also be greatly affected** (e.g. high street shops, hotels or office space). On the other side, other types of retail space might experience rising demand (e.g. warehouses).
    - The increase of financing needs will also result in again **higher levels of indebtedness of households, corporates and sovereigns** in the years to come which reverses the contraction of indebtedness levels seen in recent years.
  - The <u>riskiness of banks' exposures also depends on the sectors of their counterparties</u>. Total NFC exposures account for around 36% of the total loan portfolio of EU banks and, on average, around 57% of banks' NFCs loans and advances (18% of total loans and advances) are towards the most affected sectors.
    - The exposures to the **most affected sectors have a majority of counterparties residing in the European Economic Area (EEA)**. This is particularly high for construction and accommodation and food service activities.
    - Banks' geographical diversification proved helpful during previous crises, and it might be of help again as the magnitude of the economic hit of the pandemic varies across countries. Nonetheless, given the global character of COVID-19, the benefits of **geographical diversification might be much more limited this time**.
  - <u>Sovereign exposures might suffer from valuation effects</u>. As at Q4 2019, the gross carrying amount of general government exposures of EU banks stood at EUR 3.08tn. The largest share of sovereign exposures was measured at amortised cost (54%), followed by fair value through other comprehensive income (FVtOCI, 26 %) and fair value through profit and loss (FVtP&L, 14%, including held for trading).
    - Since variations in the market value of the exposures under FVtOCI and FVtP&L are immediately reflected in equity, **banks' capital levels might be significantly affected in periods of elevated spread volatility**.
    - The impact might be amplified by the fact that **around 45% of sovereign exposures have a maturity of 5 years or more**, which are more vulnerable to interest rate moves than shorter-term exposures.
  - <u>Asset quality for banks will be affected in a material manner from this unprecedented shock</u>. The NPL ratio in Q4 2019 stood at 3.1% with a total NPL volume of EUR 529bn, but the asset quality is heterogeneous across portfolios. Exposures to households have lower NPL ratios (3.3%) than exposures to NFCs (5.4%) and NPL ratios for SMEs, CREs and consumer credit are considerably higher than for large corporates and mortgage loans. Banks' Q1 results show the <u>first signs of deterioration in asset quality and it is expected further material deterioration</u> during the rest of the year. It is clear that only a part of the expected impact on banks' loan loss provisioning has so far been incurred, with a bigger part still to come.
- **Funding and liquidity**. Since the outbreak of the crisis, deposits have been stable and volumes have been largely unaffected. Competent authorities have not reported any unusual outflows of household or NFC deposits since March, although in some cases a temporary spike in cash demand was observed. However, since February 2020, spreads have widened substantially and new unsecured debt issuances have come almost to a halt until mid-April. About 20% of securities issued by banks will mature in the next 6 months, and an additional 10% will mature within 1 year. Tensions have also appeared in interbank and US dollar (USD) funding markets. Under these circumstances, banks have increased significantly their reliance on central bank funding, including swap lines in foreign currencies. It is expected that banks will also make some use of their ample liquidity buffers in the months to come.
- **Profitability**. Banks entered the COVID-19 crisis with very low profitability levels. Lending margins are likely to remain low as a result of central banks' monetary stimulus.
  - <u>New mortgage lending has come to a temporary halt</u> and, however <u>NFC lending is rising</u>, driven also by the drawing of committed credit lines and new lending under public guarantee schemes.
  - <u>Banks might need additional funding</u> if an overall increase in lending volumes takes place, where the cheapest source of which might be central banks.
  - The expected credit quality deterioration will result in an <u>increase in impairments</u>.
  - Branch overcapacity might increase due to the rise of online banking, pushing banks to embark on even <u>more ambitious digitalisation strategies</u>. These can also be favoured by the recent EC proposal to frontload the non-deduction of prudently valued software assets.

2. Main points (cont.)

- **Capital**. Although banks could face significant losses, capital buffers allow banks to provide relevant coverage for the rise in cost of risk, and to maintain their important financing to the real economy. Further, its risk-weighted assets (RWA) have decreased, reflecting banks' deleveraging strategies and efforts to focus their business activities on core markets and portfolios. The relief measures taken by some authorities include the following:
    - Use of the flexibility embedded in existing regulation, allowing banks to cover Pillar 2 Requirement (P2R) with capital instruments other than CET1.
    - Release or reduction of countercyclical buffers (CCyB).
    - Reduction of the systemic risk buffer (SyRB) and the other systemically important institutions (O-SII) buffer.
    - Recommendation to refrain the payment of dividends for the year 2019.

  Once this crisis is over, banks will have to rebuild capital buffers. Given their low market valuations, doing so inorganically might result in a high dilution for existing shareholders.

3. Next steps

- In early **June**, the EBA will publish the results of its **additional Transparency Exercise**, and provide detailed bank-by-bank data.

03/06/2020

Final Report Guidelines on reporting and disclosure of exposures subject to measures applied in response to the COVID-19 crisis

1. Context

The European Union (EU) and Member States have introduced a wide range of measures to support the real economy and the financial sector due to the need to address negative economic consequences of COVID-19 pandemic. In response to these measures, the European Banking Authority (EBA) has clarified the implication of such payment moratoria on the application of prudential rules, including in relation to the application of rules on forbearance and the definition of default and non-performing exposures. However, the lack of sufficient information on the application of these measures, it has generated that the EBA has introduced additional reporting and public disclosure requirements for the institutions for the purposes of supervising and transparency for investors and in the wider public interest.

In this context, the EBA has published a **Final Report Guidelines on reporting and disclosure of exposures subject to measures applied in response to the COVID-19 crisis** which sets out the following reporting and disclosure requirements for: monitoring the use of payment moratoria and the evolution of the credit quality of the exposures subject to such moratoria in accordance with the GL on moratoria; the new loans subject to specific public guarantees set up to mitigate the effects of the COVID-19 crisis; and reporting requirements on other forbearance measures applied in response to COVID-19 crisis.

2. Main points

- **Scope of reporting and disclosure requirements**. These guidelines specify the content and uniform formats to be required by competent authorities when exercising their supervisory powers for:
  - Reporting on exposures that meet the conditions set out in EBA Guidelines on legislative and non-legislative moratoria on loan repayments; the exposures subject to forbearance measures; and the newly originated exposures subject to public guarantee schemes introduced in Member States (all applied in the light of the COVID-19 crisis)
  - Disclosure of the aforementioned exposures set out in EBA Guidelines on legislative and non-legislative moratoria on loan repayments; and the newly originated exposures subject to public guarantee schemes introduced in Member States (both in response to the COVID-19 crisis)

These guidelines should be applied at the **individual, sub-consolidated and consolidated level**.

- **Reporting reference and remittance dates**. Credit institutions should report the data set out in the previous point to the 7 templates (4 reporting templates and 3 disclosure templates) and in accordance with the instructions set out in Annexes 1 and 2 from this document. On the one hand, the quarterly reporting reference dates are on 31 March, 30 June, 30 September and 31 December; and the quarterly reporting remittance dates are on 12 May, 11 August, 11 November and 11 February. On the other hand, the disclosure templates will be sent every six months.
- **Proportionality in the application of the requirements**. To ensure the proportional application of the reporting and disclosure requirements set out in these guidelines, competent authorities should consider whether they should apply the reporting and disclosure requirements, taking into account the size, nature, scope, complexity of activities and risk profile of institutions under their remit, to the specificities of their banking sector and to the impact of the COVID-19 crisis.
- **Technical package**: to facilitate reporting on the basis of these guidelines, the EBA will provide technical package, covering validation rules, the data point model (DPM) and the XBRL taxonomy and will fully integrate the new reporting into the EBA reporting framework.

3. Next steps

- The first reporting reference date and the disclosure reference date will be **30 June 2020**.
- From the first reference date, the **reporting** should be performed on a **quarterly** basis and for an expected period of 18 months, and the **disclosure** should be performed **semi-annually** on 30 June and 31 December.
- The EBA will develop and publish accompanying data validation rules (VRs), data point model (DPM) that will be used to generate an associated XBRL taxonomy in June 2020.

08/06/2020

Consultation Paper (CP) on Draft Regulatory Technical Standards (RTS) on own funds and eligible liabilities

1. Context

In the course of the adoption of the 'Risk Reduction Measures Package' by European legislators in May 2019, CRR II has updated the own funds framework with certain targeted adjustments and to a larger extent with focus on the regime of supervisory prior permission for the reduction of own funds. Furthermore, the Delegated Regulation (EU) No 241/2014 specifies the eligibility criteria for own funds ('RTS on own funds'). As the eligibility criteria has been amended, albeit to a limited extent, the RTS on own funds need to be amended too in order to reflect those changes.

In this context, the EBA has published a **Consultation Paper (CP) on draft Regulatory Technical Standards (RTS) on own funds and eligible liabilities** which main objective is to adapt the existing RTS on own funds to the new provisions introduced with CRR II. In particular, this draft RTS updates the current own funds requirements, defines harmonise criteria for qualifying as eligible liabilities and amends the rules relating to the supervisory permission for reducing own funds and eligible liabilities instruments.

2. Main points

- **CET 1, AT1 and eligible liabilities**. This draft RTS fully aligns the RTS on eligible liabilities for the purpose of indirect funding with the one on own funds and the eligibility criteria regarding the form and nature of incentives to redeem for eligibility liabilities.
- **Indirect holding arising from index holdings**. With respect to the extent of conservatism required in estimates used as an alternative to the calculation of underlying exposures for indirect holdings arising from index holdings and the meaning of operationally burdensome for the institution to monitor those underlying exposures this draft RTS have inserted references to the requirements for own funds and eligible liabilities for G-SIIs to emphasize that only G-SIIs have to deduct eligible liabilities holdings.
- **Supervisory permission for reducing own funds**.
    - The meaning '<u>of sustainable for the income capacity of the institution</u>' for the purposes of supervisory permission to reduce own funds, now also covers the <u>replacement of share premium accounts</u>.
    - With regard to the <u>process requirements</u> including the limits and procedures for an application by an institution <u>to reduce own funds</u>, slight amendments are applied in order to cater for the reduction or distribution of share premium accounts. Furthermore, regardless of the notion of sufficient certainty, institutions in such case have to deduct the predetermined amount for which the general prior permission is granted from the moment the competent authority's (CA) permission is obtained.
    - The provision regarding <u>permission for immaterial amounts</u> to be called redeemed or repurchased is no longer needed.
    - With regard to the <u>content of the application and additional information</u> to be submitted when applying for a general prior permission for reducing own funds and eligible liabilities, this draft RTS specifies the <u>type of information institutions have to provide</u> in a detailed and cross referenced manner to the different prudential requirements set out in the CRR, CRD and BRRD, reflecting the changes introduced by the European Banking Package.
    - With respect of the <u>timing of the application</u> to be submitted by the institution and the time period for processing a prior permission, this draft RTS suggest to raise the minimum time period that an application needs to be submitted in advance <u>from three to four months</u>.

2. Main points (cont.)

- **Supervisory permission for reducing eligible liabilities instruments**.
  - With respect to the conditions for an institution to seek permission to replace instrument established for own funds, this draft RTS fully aligns the terms for eligibility liabilities and sets out that the replacement should be at terms that are sustainable for the income capacity of the institution.
  - With regard to process requirements for an application by an institution to reduce eligible liabilities instruments, this draft RTS establishes that: i) calls, redemptions, repayments and repurchases of eligible liabilities instruments shall not be announced to holders of the instruments before the institution has obtained the prior permission of the resolution authority, ii) once the prior permission of the resolution authority has been obtained, the institution shall deduct the corresponding amounts, iii) in the case of a general prior permission, the predetermined amount for which the resolution authority has given its permission shall be deducted from the moment the authorization is granted.
  - This draft RTS introduces a system of limits for the reduction of eligible liabilities that is broadly similar in design and calibration as for own funds, with some adjustments (e.g. maximum overall limit of 3% of the total amount of outstanding eligible liabilities instruments).
  - This draft RTS sets out the content of the application and additional information to be submitted by the institution to obtain the prior permission of the RA.
  - With regard to the timing of the application to be submitted by the institution and processing of the application by the RA, this draft RTS suggests the minimum time period of four months before announcement to noteholders.
  - This draft RTS specifies the process of cooperation between the CA and the RA setting out the core elements of that cooperation process while leaving to authorities some flexibility to tailor the process to their internal procedures and specific circumstances.
  - The temporary waiver from deduction from own funds has been amended to open the possibility to temporarily waive the application of deduction requirements also for eligible liabilities instruments.

3. Next steps

- Comments to this CP should be submitted by **31th August, 2020**.

08/06/2020
Guidelines on loan origination and monitoring

1. Context

As part of the EU's response to cope with the high level of non-performing exposures, the Council of the European Union defined an Action Plan to tackle non-performing loans (NPLs) in July 2017, which invited the EBA to issue detailed guidelines on banks loan origination, monitoring and internal governance. Within the framework of the Council's Action Plan, the EBA has already published Guidelines on management of non-performing and forborne exposures, Guidelines on disclosures of nonperforming and forborne exposures and developed non-performing loan (NPL) transaction templates. These previous initiatives aim to tackle problems around loans once they become non-performing.

In this context, after the publication of the consultation paper in June 2019, the EBA has published **Guidelines on loan origination and monitoring** with the aim to improve institutions' practices and associated governance arrangements, processes and mechanisms in relation to credit granting, in order to ensure that institutions have robust and prudent standards for credit risk taking, management and monitoring, and that newly originated loans are of high credit quality. The guidelines also aim to ensure that the institutions' practices are aligned with consumer protection rules and respect fair treatment of consumers. Finally, these guidelines apply to all subsidiaries of European financial institutions even if they are located outside the EU.

2. Main points

- **Internal governance for credit granting and monitoring**. The EBA set out provisions on credit risk governance & culture, credit risk appetite, strategy and limits. It also focuses on credit risk policies and procedures (e.g. anti-money laundering and counter-terrorist financing (AML-CFT) policies and leveraged transactions) and credit decision making. Major changes set out in these guidelines are the institutions should:
    - Set escalation thresholds of risk appetite by management body to ensure that the remuneration framework is aligned with credit risk appetite.
    - Take into account principles of responsible lending within their credit risk policies and procedures. In particular:
        - Consider the **specific situation of a borrower**.
        - **Design credit products** that are offered to consumers in a responsible way.
    - Ensure that the credit-granting criteria are not inducing undue hardship and over-indebtedness for the borrowers and their households.
    - Specify the use of any automated models in the creditworthiness assessment and credit decision-making processes in a way that is appropriate to the size, nature and complexity of the credit facility and the types of borrowers.
    - Set out appropriate governance arrangements for the design and use of such models and the management of the associated model risk.
    - The allocation of credit decision-makers to the organisational and business structure should reflect the cascading credit risk appetite and limits within an organisation and be based on objective criteria, including risk indicators.
    - Define their risk appetite for syndicating leveraged transactions and derive a comprehensive limit framework.
    - Considerate ESG factors and associated risks on the financial conditions of borrowers, and in particular the potential impact of environmental factors and climate change, in their credit risk appetite, policies and procedures.
    - Ensure the establishment of an appropriate remuneration policy that ensures the alignment with the compliance with the risk appetite framework, the credit quality of operations and avoiding the existence of a conflict of interest.

2. Main points (cont.)

- **Loan origination procedures**. Institutions and creditors should have sufficient, accurate and up-to-date information and data necessary to assess the borrower's creditworthiness and risk profile before concluding a loan agreement.
    - Institutions and creditors can consider the use of specific information, data items and evidence suggested in these guidelines to gather the needed information for the creditworthiness assessment.
    - Specific policies are required for the prevention of money laundering and terrorist financing, compliance with ESG factors, leveraged transactions and sustainable financing.
    - Institutions must ensure that the models used in the credit granting processes must be explainable and interpretable.
    - The information requirements on the assessment of the solvency of operations are no longer prescriptive (they are a reference). Additionally, some modifications to these requirements have been included such as:
        - **New metrics are included**: sources of repayment capacity, composition of households and dependents, expenses for servicing of financial commitments and regular expenses.
        - **Differences between micro & small enterprises and medium-size & large enterprises**. Requirements are adapted according to the type and size of the borrower (e.g. sensitive analysis applies only for medium-size and large enterprises).
- **Pricing**. The EBA notes that pricing frameworks should reflect institutions' credit risk appetite and business strategies, including profitability and risk perspective. Major changes comprise that institutions should:
    - Pricing frameworks should reflect institutions' credit risk appetite and business strategies, including profitability and risk perspective.
    - Set up a pricing framework according to the type of portfolio/customer: (i) for micro and small enterprises the price should be set at the portfolio and product level; and (ii) for medium and large enterprises the price should be set at the transaction/loan level.
    - Consider differentiating between their pricing frameworks, depending on the types of loans and borrowers. For consumers and micro and small enterprises, the pricing should be more portfolio and product based, whereas for medium-sized and large enterprises the pricing should be more transaction and loan specific.
    - Set out specific approaches to pricing promotional loans, when risk-based and performance considerations specified in this section do not fully apply.
    - Include as a part of the pricing the cost of capital, cost of financing, operational and administrative cost, cost of credit risk, any other associated costs and, new according to the draft Guide, the consideration of competition and market conditions.
    - Regarding the monitoring process, all material transactions below costs should be identified and properly justified, in line with the policies and procedures established by the institution.
- **Valuation of immovable and movable property**. When a credit facility is secured by an immovable or movable property collateral, institutions should ensure that the valuation of the collateral is carried out accurately and based on its internal policies and procedures. Among the changes it is highlighted that institutions must:
    - Have a procedure for the valuation, monitoring and review of the value by type of guarantee.
    - Take into account ESG factors affecting the value of the collateral (e.g. the energy efficiency of buildings).
    - When institutions use external valuers, they should establish a panel of accepted external valuers to ensure that they have relevant expertise in relevant segments of the property sector. These institutions are responsible of the setting up and maintenance of this panel.
    - Ensure an adequate rotation of valuers. although the final version of the Guide set out that there is a flexible limitation of 2 appraisals to carry out the rotation of appraisers and the entity is able to establish the limit.
    - The EBA has further revised the guidelines to allow the use of advanced statistical models for the valuation of immovable property collateral at the point of origination, according to the requirements of the CRR/CRD and Mortgage Credit Directive (MCD).

2. Main points (cont.)

- **Monitoring framework**. Institutions should have a robust and effective monitoring framework, supported by an adequate data infrastructure, to ensure that information regarding their credit risk exposures, borrowers and collateral is relevant and up to date, and that the external reporting is reliable, complete, up to date and timely. These guidelines incorporate the following requirements:
    - Proportionality criteria have been included, therefore individual monitoring and in particular, regular credit reviews and qualitative monitoring factors apply to corporate borrowers (medium and large companies). In general, it is required to monitor the consumers, micro and small businesses at the portfolio level.
    - Sensitivity analysis is required in credit reviews for medium and large enterprises; however, the requirement of monitoring the stress testing has been eliminated in these guidelines, as the EBA Guidelines on stress testing are regulated.
    - In addition to monitoring credit and financial metrics, institutions should take into account information related to qualitative factors that could have a relevant influence on the repayment of a loan.
    - Institutions engaged in syndicating leveraged transactions should implement internal standards and monitoring functions for these activities and establish a dedicated framework to deal with failed syndications in terms of holding strategy, booking and accounting practices, regulatory classification and subsequent capital requirements calculation (i.e. transaction that were not syndicated within 90 days following the commitment date).
    - Performing regular credit reviews of borrowers that are at least medium-sized or large enterprises, with a view to identifying any changes in their risk profile, financial position or creditworthiness compared with the criteria at the point of loan origination.
    - High risk operations are aligned with the article 128 of CRR2. No specific KRIs are required to identify them.
    - Monitoring concentration measures against the values specified in their credit risk appetite, policies and procedures, including, where relevant, by product, geography, industry, collateral features, and quality of portfolios, sub-portfolios and exposures.
- **Other aspects to consider**. In the final version of these guidelines, EBA has clarified the following aspects:
    - Application of the guidelines at the subsidiary level for European financial institutions, including those are located outside the European Union.
    - Exclusion of refinanced/restructured transactions from the scope of these guidelines.

3. Next steps

- The Guidelines will apply from **30 June 2021**. However, institutions will benefit from a series of transitional arrangements:
    - The application of the guidelines to the already existing loans and advances that require renegotiation or contractual changes with the borrowers will apply from 30 June 2022.
    - If institutions do not have all the relevant information and data to be used for the monitoring of existing borrowers or credit facilities granted before the application date, they should collect missing information and data until 30 June 2024.
- The deadline for competent authorities to report whether they comply with the guidelines will be **2 months after the publication** of the official EU languages translations.

11/06/2020

Spring 2020 EU-wide transparency exercise

1. Context

Since 2011, the EBA has been conducting transparency exercises at the EU-wide level on an annual basis. The transparency exercise is part of the EBA's ongoing efforts to foster transparency and market discipline in the EU financial market, and complements banks' own Pillar 3 disclosures, as laid down in Capital requirements directive (CRD). In 2020, following the postponement of the EU-wide stress test exercise, the EBA decided to release two Transparency exercises, one in late Spring and one in late Autumn, with the aim to inform the public on the conditions of the EU banking sector at the start of the COVID-19 crisis and the impact of the crisis in the first half of 2020.

In this context, the EBA has published the **Spring 2020 EU-wide transparency exercise** with the aim of providing market participants with updated information on banks' exposures and asset quality as of 31 December 2019, prior to the start of the crisis. The data included in the Spring 2020 exercise can serve a benchmark on the condition of the banking sector before the pandemic crisis and as a starting point for the analysis of the crisis impact. The direct impact from Covid-19 on the banking sector will be more evident with the disclosure of 2020 data in the next Transparency exercises.

2. Main points

- **General aspects**. The EBA has developed a set of practical tools to help users navigate through the Spring 2020 EU-wide transparency data. These include interactive maps and aggregation tools, which allows users visualizing and analysis data by country and by bank through maps, as well as a complete dataset in CSV format, which can be imported into any analytical software for analysis purposes. The transparency dataset itself is stored in four different CSV files and shows all the bank-by-bank data contained in the transparency templates.
    - Sample of banks:127 banks from 27 countries of the EU and the European Economic Area (EEA). Based on total assets, this sample covers about 74% of the EU/EEA banking sector.
    - Reference date for the data: September 2019 and December 2019.
    - The templates cover the following areas: capital, leverage ratio, risk exposure amounts, profit and losses, assets, liabilities, market risk, credit risk, exposures to sovereign, non-performing exposures, forborne exposures and Breakdown of loans and advances to non-financial corporation.
- **Results**. The data confirms the EU banking sector entered the crisis with solid capital positions and improved asset quality, but also shows the significant dispersion across banks. The results of the main indicators of institutions in Europe are:

Overview of key figures

Reference date	CET1 ratio		Leverage ratio		NPL ratio	Coverage ratio for NPL	NII to total operating income	Cost to income ratio
	Transit.[1]	Fully-loaded[2]	Transit.[1]	Fully Phased-in[3]				
Sep. 2019	14.6%	14.4%	5.4%	5.2%	2.9%	44.6%	58.2%	63.3%
Dec. 2019	**15.1%**	**14.8%**	**5.6%**	**5.5%**	**2.7%**	**44.7%**	**58.4%**	**64.0%**

[1] Transitional definition (of Tier 1) Data of EU/EEA banks

[2] Fully loaded definition

[3] Fully phased-in definition of Tier 1

2. Main points (cont.)

- Capital position. The EU banks reported increasing capital ratios in 2019. The EU weighted average CET1 fully loaded capital ratio was at 14.8% as of Q4 2019, around 40bps higher than Q3 2019. The trend was supported by higher capital, but also contracting risk exposure amounts (REA). As of December 2019, 75% of the banks reported a CET1 fully loaded capital ratio above 13.4% and all banks reported a ratio above 11%, well above the regulatory requirements.
- Leverage ratio. The EU weighted fully phased-in leverage ratio stood at 5.5%. The leverage ratio increased by 30bps compared to the previous quarter, driven by rising capital and declining exposures. The lowest reported leverage ratio was 4.7% at country level (Denmark), and 1.6% at bank level (Kommuninvest Group of Sweeden).
- NPL ratio. The asset quality of EU banks has been on an improving trend over the last few years. As of Q4 2019 the EU weighted average NPL ratio declined to 2.7%, 20bps lower than in Q3 2019. The Q4 2019 ratio was the lowest since the EBA introduced a harmonised definition of NPLs across European countries. Dispersion in the NPL ratio across countries remained wide, with few banks still reporting double-digit ratios, although in the last quarter the interquartile range compressed by 80 bps, to 3.1%. By countries, Greece remained as the country with the highest NPL ratio (35.2%), followed by Cyprus (19.3%) and Bulgaria (18.2%), however these countries have also improved their situation since the last Transparency exercise (e.g. Greece NPL ratio is 220bps lower than in Q3 2019). On the other hand, the rest of countries are below the 8% with the best records in Sweden (0.5%), Germany (1.3%) and the UK (1.3%).
- Coverage ratio for NPL. This ratio remains stable at 44.7%, compared to 44.6% in September 2019. However this ratio has decreased in the last years (e.g. 45.97% in June 2018) with its lower record in the Netherlands (25.5%) and Ireland (27.0%). On the other hand, Hungary (67.4%), Slovenia (64.5%) and Poland (60.7%) have the highest records.
- Net interest income (NII) to total operating income. The NII to total operating income has remained stable in Q4 2019, increasing by 20bps. Luxembourg (30.2%) has the lowest ratio, while Netherlands (77.6%) has the highest, although in the last quarter of 2019 descended by 140bps.
- Cost to income ratio. The cost to income ratio has increased 70bps to 64% which reflects an improvement on the banks operational costs and incomes. However, there is a great difference between countries: Luxembourg (88.2%) and Germany (84.4%) vs. Lithuania (35.3%) and Norway (42.6%).
- Breakdown of loans and advances to Non-Financial Corporations. The most significant changes for this year's Transparency exercise derive from the disclosure of two additional templates, disclosing information related to liabilities and exposures towards industry sectors. Among the most significant sectors it should be highlighted the real state activities (25%), manufacturing (16%) and wholesale and retail trade (13%) as the most important ones.
- Assets and liabilities composition. Among the assets composition in the EU, the financial assets at amortised cost accounts for 61.2% and the financial assets held for trading for 14.3%. On the liabilities composition side, the financial liabilities measured at amortised cost & non-trading non-derivative financial liabilities measured at a cost-based method accounts for 79%.

16/06/2020
Consultation Paper (CP) Draft Regulatory Technical Standards (RTS) on the calculation of the stress scenario risk measure under Article 325bk(3) of Regulation (EU) No 575/2013 (Capital Requirements Regulation 2 - CRR2)

1. Context

In November 2016, the European Commission proposed the amendments to the Capital Requirements Regulation (CRR), which required that institutions shall calculate the stress scenario risk measure (SSRM, Stress Scenario Risk Measure) for all the non-modellable risk factors (NMRF, Non-Modellable Risk Factors) of the trading book positions in a given portfolio. In this line, the publication of these amendments included to CRR in May 2019, setting up a mandate to the EBA to develop draft Regulatory Technical Standards (RTS, Regulatory Technical Standards) to specify how to calculate the 'extreme scenario of future shock' and how to apply it to the NMRF to form the stress scenario risk measure. On the other hand, in December 2017, the EBA published a Discussion Paper (DP) on the EU implementation of market risk and counterparty credit risk revised standards. Considering the feedback received on the discussion paper, and in light of the final international standards, the EBA launched in July 2019 a data collection exercise presenting several SSRM calculation method variants.

In this context, the EBA has published the **Consultation Paper (CP) Draft Regulatory Technical Standards (RTS) on the calculation of the stress scenario risk measure** with the aim of setting out a clear methodology is deemed necessary to ensure a level playing field among institutions in the European Union. In particular, these draft RTS set out the methodologies that institutions are required to use for the purpose of determining the extreme scenario of future shock that, when applied to the NMRF, provides the SSRM. This CP identify two over-arching approaches, although only one of the two will be kept after consultation, that may be used by institutions for determining an extreme scenario of future shock.

2. Main points

- **Overarching approaches for determining the extreme scenario of future shock and determination of the stress period for the NMRF**. The EBA proposes two different overarching approaches that could be implemented for determining the SSRM corresponding to an extreme scenario of future shock as well as how to identify the relevant stress period at risk class level and quarterly basis under each option:
    - Option A: determination of the stress scenario risk measure directly from the stress period.
    - Option B: rescaling a shock calibrated on the current period to obtain a shock calibrated on the stress period. In this case, the 'Methodology S – the stepwise method is applied.

  Both options imply that the institution calculates the SSRM as the loss occurring when the extreme scenario of future shock is applied to the NMRF. Also in this case, such SSRM is then rescaled to reflect the liquidity horizons of the NMRF directly in the aggregation formula set out in these draft RTS.
- **Determination of the extreme scenario of the shock**. Institutions are required to determine a scenario of future shock by applying one of the two methodologies proposed, which have two variants for each methodology depending on whether the institution calculates the stress scenario risk measure for a single NMRF or for the NMRF belonging to a non-modellable bucket.
    - Methodology D – Direct method for future shock: the direct method requires institutions to derive the scenario of future shock by directly calculating the expected shortfall of the portfolio losses.
    - Methodology S - Stepwise method for future shock: the stepwise method requires institutions to determine the scenario of future shock by steps.
- **Regulatory extreme scenario of future shock that institution may use (or may be required to use) when unable to develop an extreme scenario of future shock**. In this case, the competent authority may require the institution to consider the maximum loss that may occur due to a change in the as the stress scenario risk measure for that NMRF. Where such maximum loss does not take a finite value, then institutions shall use an approach using quantitative and qualitative information available to determine a prudent value of the loss that can occur due to a change in the value of the NMRF. Such loss must be determined targeting a level of certainty equal to 99.95% (i.e. it cannot be exceeded in the 99.95% of the cases on a 10 business day horizon).

2. Main points (cont.)

- **Circumstances under which institutions may calculate a SSRM for more than one NMRF**. These draft RTS set out that institutions may calculate a unique SSRM for more than one NMRF if those risk factors belong to the same regulatory bucket and the institutions use the regulatory bucketing approach for assessing the modellability of those risk factors.
- **Aggregation of the stress scenario risk measures**. These draft RTS propose an aggregation formula that aims at capturing the following effects:
  - The non-linearity in the loss function for NMRF for which the institution identified the extreme scenario of future shock using the stepwise method. However, when losses grow faster than linearly, the expected shortfall of losses for varying is higher than the loss of the expected shortfall, such non-linear effects should be captured in the aggregation formula.
  - The uncertainty due to the lower observability of non-modellable risk factors, statistical estimation error and the uncertainty in the underlying distribution for NMRF. It should be noted that where the institution applies the stepwise method such uncertainty is already captured where identifying the extreme scenario of future shock; accordingly, such effect has to be captured in the aggregation formula only for risk factors where the extreme scenario of future shock has been identified applying the direct method.
  - The liquidity horizons of the relevant NMRF since the general methodology has been designed to get a 10-days SSRM.
  - The correlation among NMRF.

3. Next steps

- Comments to this CP should be submitted by **4 September 2020**.

17/06/2020

Consultation Paper (CP) on Draft Regulatory Technical Standards (RTS) on the prudential treatment of software assets

1. Context

As part of the Risk Reduction Measures (RRM) package adopted by the European legislators, the deductions from Common Equity Tier 1 (CET 1) items have been amended, introducing, inter alia, an exemption from the deduction of intangible assets in case of "prudently valued software assets, the value of which is not negatively affected by resolution, insolvency or liquidation of the institutions".

In this context, the EBA has published a **Consultation Paper (CP) on Draft Regulatory Technical Standards (RTS) on the prudential treatment of software assets** which specifies the application of the exemption to the deduction of intangible assets from CET 1 and the materiality of the negative effects on the value which do not cause prudential concerns. In this sense, the EBA aimed at achieving an appropriate balance between the need to maintain a certain margin of conservatism/prudence in the treatment of software for prudential purposes, and the acknowledgment of the relevance of software assets from a business and economic perspective, in a context of increasing digital environment.

2. Main points

- **Prudential treatment of software assets based on their amortisation**. This draft RTS proposes an approach developed based on prudential amortization. Under this approach, the positive difference between the prudential and the accounting accumulated amortization would be fully deducted from CET 1 capital, while the residual portion of the carrying amount of software would be subject to a 100%risk-weighted. Furthermore, this approach would appropriately take into account the manner the recoverable value of software assets is negatively affected over time. The useful life of software estimated for accounting purposes should be shorter than the prudential amortization period. In this sense, the calibration of the prudential amortization period is proposed to be set at 2 years. Institutions shall calculate the prudential amortization of software assets by multiplying the result derived from the calculation of the two following points:
    - <u>The amount at which the software assets have been initially recognised in the balance sheet of the instituion in accordance with the applicable accounting framework</u>, divided by the number of calendar days of a period that shall not exceed the lower of:
        - The **useful life** of the respective software assets estimated for accounting purposes;
        - **2 years** (the start date from which the two years begin to run will be clarified in the final RTS).
    - <u>The number of calendar days elapsed</u> since the date of the initial recognition of the software assets on the balance sheet under the applicable accounting framework, regardless of the date on which the software assets would be available for use and would begin to be amortised for accounting purposes, or from the date on which the software assets would be available for use and would begin to be amortised for accounting purposes; and up to the end of the useful life estimated.
- **Supervision**. This draft RTS covers a number of areas where a close scrutiny will be warranted by regulators, supervisors and external auditors, as a change in the current treatment might affect the accounting practices currently used by the supervised institutions and to what extent this would have an impact on the regulatory metrics. In this regard, potential areas to be monitored deal with the practices adopted for:
    - <u>The capitalization of the costs</u> related to internally generated software.
    - <u>The estimation of the expected useful life and the amortization methodology</u> of software assets.
    - <u>The treatment of software assets acquired as part of business combinations</u>.

3. Next steps

- Comments to this CP shall be submitted by **9 July 2020**.

22/06/2020

- **EBA Roadmap on Investment Firms**
- **CP on draft RTS prudential requirements for investment firms / EBA data collection for investment firms - Instructions / EBA data collection for investment firms – Template**
- **CP on draft ITS on reporting and disclosures for investment firms and draft RTS on the monitoring of information related to the thresholds for credit institutions reporting requirements for investment firms / Annexes**
- **CP on draft RTS on instruments for investment firms remuneration**
- **CP on draft RTS on pay out in instruments for variable remuneration under IFD**

1. Context

On 5 December 2019, the European Parliament and the Council published the Investment Firm Directive (IFD) and Investment Firm Regulation (IFR) which separates the prudential treatment of investment firms (IFs) and credit institutions (CIs) and will be applicable 18 months after their entry into force. In the IFD/IFR, a significant number of mandates has been given to the EBA, often in consultation with the European Securities and Markets Authority (ESMA), which has direct implications for the implementation of the framework.

In this context, the EBA has published its **roadmap for the implementation of the new regulatory framework** for IF and launched **consultation papers (CP)** on its first set of regulatory deliverables on **prudential**, **reporting**, **disclosures** and **remuneration requirements**, with the aim to strength the supervision, which will rely more directly on the risks faced by the clients and the investment firms themselves.

2. Main points

EBA Roadmap on Investment Firms

- **Roadmap for the implementation of the IFs new regulatory framework**. The EBA mandates have been grouped into the following thematic areas:
  - Thresholds and criteria for IFs to be subject to the CRR. The IFD and IFR include mandates concerning IFs' transition to the prudential status of CI, to provide clear guidance to competent authorities (CAs) on assessing the information to be provided in an application to become a CI and to provide the scope and methodology for the calculation of the threshold beyond which IFs are required to apply for CI authorization.
  - Capital requirements and composition. Mandates concerning the elements needed for the calculation of the capital requirements for Ifs include, among others, a measurement methodology for each of the k-factors as well as supplementary clarification concerning some of the associated notions.
  - Reporting and disclosure. IFs will be required to report to the CAs on their compliance with the prudential framework, specifically in terms of own funds, level of minimum capital, concentration risk, liquidity requirements, level of activity in respect of small and non-interconnected Ifs and the reporting requirements for the purposes of the thresholds that apply to certain IFs. Furthermore, IFs will be subject to disclosure requirements too, in particular, regarding their capital resources, requirements, remuneration policies and practices, and governance standards.
  - Remuneration and governance. The key objectives of the EBA's strategy in the areas of governance and remuneration are, first, to ensure a comprehensive framework for IFs within the EU, and, second, to ensure, when possible, cross-sectoral consistency between the governance and remuneration framework under the IFD and the CRD, also taking into account the requirements set out within the Alternative Investment Fund Managers Directive (AIFMD) and the Undertakings for Collective Investment in Transferable Securities Directive (UCITS) , as mandated within the IFD.
  - Supervisory convergence and the supervisory review process. The EBA's strategy in terms of policy in these areas includes to provide policy products that are fit for purpose for the day-to-day work of CAs in order to facilitate their application, to ensure a consistent and proportionate application of Pillar 2 methodologies across the Union, and to ensure, when possible, cross-sectorial consistency between supervisory cooperation, the SREP and the Pillar 2 framework under the CRD and the IFD.
  - Environmental, social and governance (ESG) factors and risks. The EBA will aim to deliver the ESG-related mandates for IFs by exploring the synergies with ongoing work under the revised CRR/CRD package (EBA action plan on sustainable finance) taking into account particularities of IFs. Further, it is planned to align the timeline for delivering the IFR report with the CRR report.

2. Main points (cont.)

CP on draft RTS prudential requirements for IFs

- **Draft RTS on prudential requirements for IFs**. This CP includes a set of draft RTS which cover the following aspects:
  - The first two draft RTS have been developed for the mandates related to the reclassification of certain IFs to CIs:
    - Draft RTS on the information to be provided for the authorization of IFs as CIs,
    - Draft RTS on the calculation of the EUR 30 bn threshold for an IF to be required to apply for a CI authorization.
  - The second group of the mandates related to capital requirements for IFs at solo level:
    - Draft RTS which specifies the calculation of the fixed overheads requirement and to define the notion of a material change.
    - Draft RTS which specifies the methods for measuring the K-factors to the extent they are not already fully detailed in the IFR.
    - Draft RTS which clarifies the notion of the definition of segregated account by setting the criteria for their identification for the purpose of calculating the capital requirement related to holding client money (K-CMH).
    - Draft RTS which specifies adjustments to the K-DTF coefficients in correspondence of stressed market conditions when market experience a period of extreme volatility.
    - Draft RTS to specify the calculation of the amount of the total margin for the calculation of K-CMG and the criteria to avoid regulatory arbitrage in case that approach is used.
    - Draft RTS on the criteria for subjecting certain IF to the CRR.
  - The third mandate relates to the scope and methods of prudential consolidation for IF groups and provides rules for the calculation of the capital requirements in a consolidated situation (Draft RTS on prudential consolidation of IFs groups).

CP on draft ITS on reporting and disclosures requirements and draft RTS on the monitoring of information related to the thresholds for CIs reporting requirements for investment firms

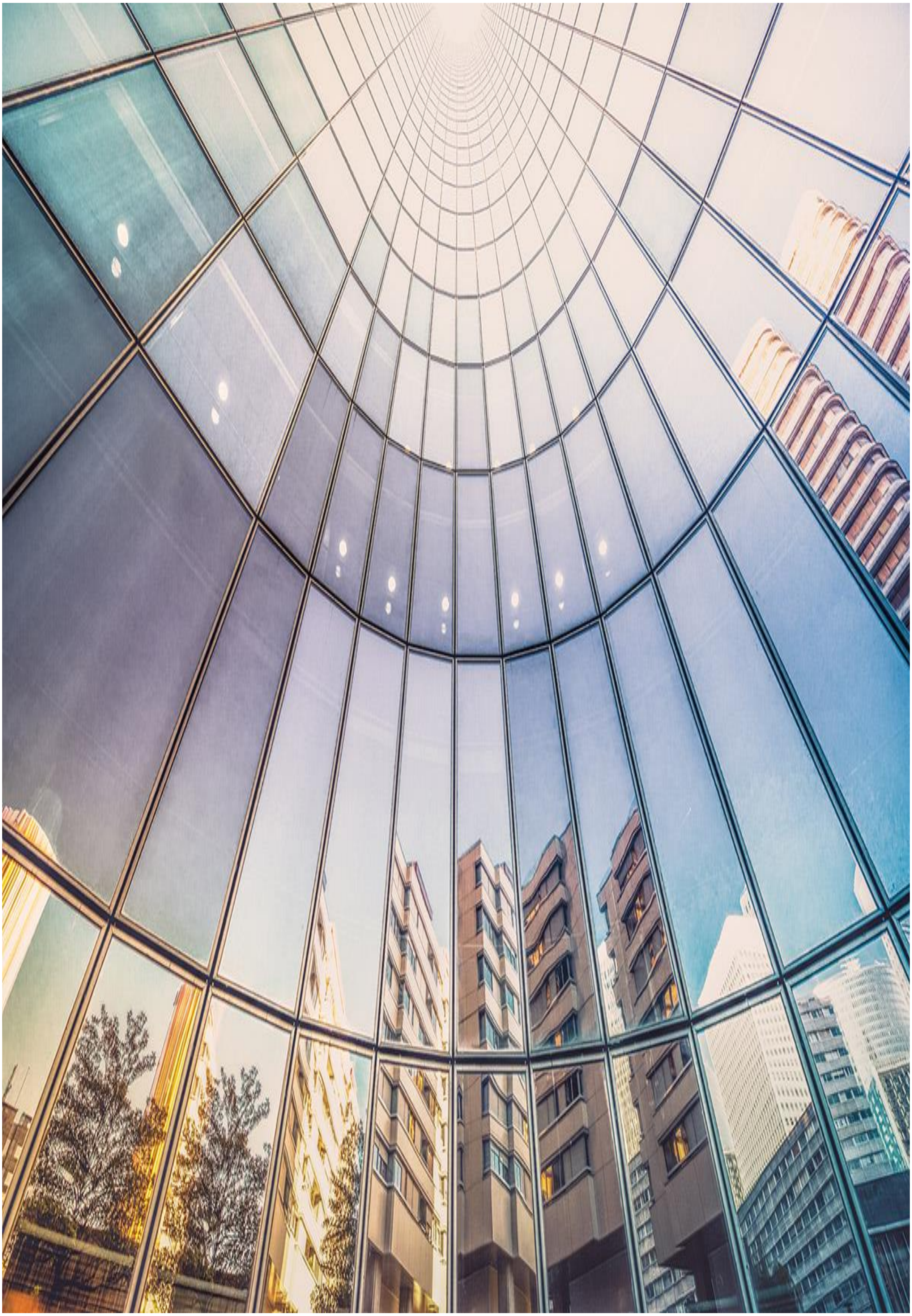
- **Draft ITS on reporting and disclosure requirements**. This draft ITS covers all supervisory reporting and disclosure requirements for IFs under IFR with a proportionate regulatory framework which takes into account the business of IFs, their activity, size and interconnectedness.
- **Draft RTS on the monitoring on information related to the thresholds for CIs reporting requirements for IFs**. This draft RTS includes a set of templates in order to assist CAs in the verification on the information set on the ITS.

CP on draft RTS on instruments for IFs remuneration and draft RTS on pay out in instruments for variable remuneration under IFD

- **Draft RTS on instruments for investment firms remuneration**. This draft RTS set out requirements for AT 1, Tier 2 and other instruments to ensure that the credit quality of the institution is reflected in the instruments and that these instruments are appropriate for the purposes of variable remuneration.
- **Draft RTS on pay out in instruments for variable remuneration under IFD**. This draft RTS main objectives are to harmonise the criteria for the identification of staff whose professional activities have a material impact on the firm's risk profile or assets it manages in order to ensure a consistent approach to the identification of such staff across the EU. The identification criteria are a combination of qualitative and appropriate quantitative criteria that aim at ensuring that a sufficient level of scrutiny by IFs and CAs is applied. Under these draft RTS a staff member will be characterized as "identified staff" if at least one of the criteria is met.

3. Next steps

- Comments to these public consultations shall be submitted by **4 September 2020**.
- The RTS on prudential requirements for investment firms shall apply from **June 2021**.



BANCO DE ESPAÑA
Eurosistema

20/04/2020
Preguntas frecuentes sobre el uso de la flexibilidad prevista en la normativa contable ante el shock causado por el Covid-19

1. Context

The outbreak of the COVID-19 pandemic and the response measures that have been adopted in many countries across the globe and in Spain, are having significant economic consequences. In order to support the financing of the real economy through the entities and thus facilitate their subsequent recovery from the health crisis, European banking regulators and supervisors recommend making appropriate use of the flexibility provided for in the regulatory framework. In this regard, the BoS published an Information Note at the end of March which set out the flexibility measures previously announced by the European Central Bank (ECB), the European Banking Authority (EBA) and the European Securities and Markets Authority (ESMA), which focused mainly on allowing credit institutions to use capital and liquidity buffers and on making supervisory time and processes more flexible.

In this context, the BoS has published a series of **FAQ on the use of the flexibility provided in the accounting regulations in response to the shock caused by COVID-19** in order to clarify certain doubts raised by the Information Note published by this same agency on 30 March 2020.

2. Main point

- **Refinancing and renewal in the modification of a credit operation**. The main difference between a refinancing or restructuring and a renewal or renegotiation is that in the first one the entity considers that the borrower has current or foreseeable financial difficulties. This difference has implications in different areas such as public and reserved statements, accounting criteria and prudential capital requirements.
- **Payment holidays**. Payment holidays do not generate any change in the accounting classification of the loan for credit risk. However, they do have implications for the calculation of the maturity of the obligations because the amounts suspended by payment holidays are not considered to be due and therefore are not considered to be overdue.
- **Accounting classification by credit risk of loans granted by the Instituto de Crédito Oficial (ICO) guarantees**. The entity will have to analyse whether the financing with the ICO guarantee is a refinancing or not. In any case, it will be understood that the holder is in financial difficulty if
    - Any of the pre-existing operations is classified as doubtful or has amounts that are more than 30 days overdue.
    - There is a partial default (e.g. a debt removal) of such transactions.
- **Accounting treatment of contractual bilateral modifications**. Financial institutions must analyze whether the modification of the contractual conditions of a transaction agreed bilaterally between an institution and a client is considered a refinancing or a renewal-
- **Factors to be considered when determining the existence of a liquidity problem**. The probability of default during the operation's lifetime should be considered to determine whether there has been a significant increase in credit risk (SICR), in addition to giving greater weight to more stable forecasts based on past experience, while there is no possibility of having more reliable current forecasts. In this regard, the mechanical use of classification factors in the use of existing flexibility in the accounting framework should be avoided.
- **Classification of an operation as standard risk under special surveillance**. Transactions that are 30 days in their due amounts should not automatically be classified as standard risk under special surveillance.
- **Impact of public guarantees on the estimation of expected losses from credit risk**. When calculating the credit loss of operations covered by public guarantees, entities must estimate the cash flows considering all the characteristics of the operation (i.e. among the cash flows, those that would be obtained from the execution of these public guarantees must be taken into account). Consequently, the estimated amount of the coverage of the operations with public guarantee or collateral would be reduced to the extent that the guarantee or collateral covers the eventual lack of cash flows of the borrower.

2. Main points (cont.)

- **Implications of giving greater weight to more stable scenarios in the estimates of expected losses**. As long as the situation of uncertainty and volatility continues, institutions will reflect more stable conditions in their prospective scenarios, in which the effects of the immediate fluctuations generated in an environment subject to continuous changes in the very short term will be mitigated. Subsequently, when the situation begins to stabilise, and reasonable and substantiated information is available, institutions will be able to make more reliable predictions that will be reflected in macroeconomic scenarios and their associated probabilities.
- **Alternative solutions for collective estimates of credit risk coverage**. Institutions may continue to use these alternative solutions without the need to make any additional adjustments. When the BoS has reasonable and substantiated prospective information that allows it to make robust forecasts, it will analyze the calibration of the alternative solutions.
- **Identification of the transactions directly affected by COVID-19**. These transactions must be fully documented and identified in the institution's accounting and risk management systems. In particular, the necessary information must be maintained to know, at all times, the type of measure applied and the evolution of the operations affected, so that their appropriate monitoring and internal control can be carried out.
- **Impact of ECB recommendations in the prudential field on less significant credit institutions**. In the event that the capital of institutions falls below that required to cover the capital conservation buffer and they are required to submit a compliance plan, the BoS will be flexible in processing the approval of such a plan. Furthermore, since the current situation may lead to liquidity pressures, institutions are expected to make use of their liquid asset cushions, even if this means that they may fall below the minimum levels of liquidity coverage (LCR). When this happens, institutions must submit to the supervisor a return-to-compliance plan, which the BoS will process flexibly.

BANCO DE ESPAÑA
Eurosistema

27/04/2020
Boletín Económico 2/2020: Escenarios Macroeconómicos de Referencia para la Economía Española tras el COVID-19

1. Context

The outbreak of the COVID-19 pandemic and the response measures that have been adopted in many countries across the globe and in Spain, are having significant economic consequences. In order to support the financing of the real economy through the entities and thus facilitate their subsequent recovery from the health crisis, European banking regulators and supervisors recommend making appropriate use of the flexibility provided for in the regulatory framework. In this regard, the BoS published a quarterly report on the Spanish economy at the end of March, which analysed the Spanish economic situation at that time, but no monthly indicators were yet available that would make it possible to assess the depth of the economic disturbance, caused by the measures taken to stop the spread of the disease, which was presumed to be very high anyway.

In this context, the BoS has published the **Economic Bulletin 2/2020: Reference Macroeconomic Scenarios for the Spanish Economy after COVID-19**, which develops a set of scenarios for the Spanish economy that take into account different alternative assumptions about the duration of confinement and the persistence of the disturbance suffered. In particular, two methodologies of a different nature have been used: the first is based on an assessment of sectoral production losses as a result of the containment measures of the epidemic, and the second is based on simulations of the main channels of transmission of the economic effects of the pandemic, using the Bank of Spain's Quarterly Model (MTBE).

2. Main points

- **From health crisis to economic crisis**. The health policies taken to slow down the advance of the COVID-19, such as the declaration of the state of alarm, the confinement and the suspension of all non-essential economic activity, have had a great impact on the Spanish economy. However, the economic outlook is surrounded in high uncertainty, mainly due to:
    - An undetermined period of confinement, given that as the pandemic has progressed it has had to be constantly extended.
    - The measures that may need to be taken, once the state of alarm is finalised, both preventively, to avoid the appearance of new sources of infection, and to contain them if they occur.

  Due to these uncertainties, various alternative scenarios have been chosen for the preparation of macroeconomic projections.
- **Reference macroeconomic scenarios built from a supply-side perspective**. These scenarios focus on the downturn in production in different sectors of the economy as an immediate consequence of the measures to contain the epidemic and during the estimated period in which these measures will be in place. The scenarios developed with this approach are the following:
    - Scenario 1: with a containment duration of 8 weeks and almost complete normalisation after the containment, a 6.6% decline in GDP in 2020 is estimated.
    - Scenario 2: with a containment duration of 8 weeks and with almost complete normalisation in the fourth quarter, an 8.7% decline in GDP in 2020 is estimated.
    - Scenario 3: with a containment period of 12 weeks and incomplete normalisation at the end of the year (particularly in the hotel and leisure sectors), a fall in GDP of 13.6% is estimated for 2020.

  This supply-side methodology, which is mainly of an accounting nature, is useful in order to have a reliable estimate of the initial magnitude of the disturbance. However, this approach does not provide a description of subsequent developments beyond the short term, as it does not incorporate explicit modelling of the relationships between economic aggregates.

2. Main points (cont.)

- **Reference macroeconomic scenarios built from a demand perspective**. The second approach to scenario building is based on the performance of simulations with the MTBE, which makes possible to partially address the limitations of the previous approach. MTBE constitutes a schematic description of the main relationships of the Spanish economy, which helps to understand the most important channels of transmission of the disturbance. The scenarios built with the MTBE incorporate a set of disturbances that approximate the effects of the pandemic and are the following:
    - Scenario 1: With a containment duration of 8 weeks and assuming that the measures prevent lasting job losses and business closures, a 6.8% decline in GDP in 2020 is estimated. In this scenario, GDP is expected to recover by 5.5% in 2021 after falling in 2020.
    - Scenario 2: With a containment duration of 8 weeks and assuming that a certain proportion of companies fail to prevent liquidity problems from turning into solvency problems, a 9.5% decline in GDP in 2020 is estimated. In this scenario, GDP is expected to recover by 6.1% in 2021 after falling in 2020.
    - Scenario 3: With a containment period of 12 weeks and assuming that a certain proportion of companies (higher than in scenario 2) fail to prevent liquidity problems from turning into solvency problems, a 12.4% decline in GDP in 2020 is estimated. In this scenario, GDP is projected to recover by 8.5% in 2021 after falling in 2020.

  The different scenarios constructed show that the budgetary cost of the recessionary period caused by the COVID-19 will be very high, specifically the public deficit in 2020 could be in the range of approximately -7% to -11% of GDP. The public debt would be in the range of around 110% to over 120% of GDP this year.

3. Next steps

- These scenarios have a preliminary nature, and are **subject to subsequent revisions** that may be potentially important, depending on the developments observed.

17/06/2020

- **Circular 2/2020 por la que se modifica la Circular 4/2017, a entidades de crédito, sobre normas de información financiera pública y reservada, y modelos de estados financieros**
- **Circular 3/2020 por la que se modifica la Circular 4/2017, a entidades de crédito, sobre normas de información financiera pública y reservada, y modelos de estados financieros**

1. Context

In December 2017, the BoS published Circular 4/2017 on public and confidential financial reporting standards and financial statement formats, which replaced Circular 4/2004, with the aim of adapting the accounting regime for Spanish credit institutions to IFRS 9 and IFRS 15, adopted in the EU in 2016, which modify the accounting criteria for financial instruments and ordinary income, respectively. In this regard, and as a result of the crisis caused by COVID-19, banking regulators and supervisors around the world are recommending that adequate use be made of the flexibility implicit in the regulatory framework, without detracting from the proper identification of the deterioration of operations and a reasonable estimate of their coverage for credit risk. Specifically, the European Banking Authority (EBA) has developed this recommendation in aspects related to the accounting classification of transactions by credit risk and IFRS 9.

In this context, the BoS has issued **Circulars 2/2020 and 3/2020 amending Circular 4/2017 to credit institutions on public and confidential financial reporting standards and financial statement formats**. The first one aims to adapt Circular 4/2017 to the changes in the international regulations on information requirements for credit institutions, and the second one to allow institutions to make greater use of flexibility in credit risk management practices and the accounting of expected credit losses (ECL).

2. Main points

<u>Circular 2/2020 por la que se modifica la Circular 4/2017, a entidades de crédito, sobre normas de información financiera pública y reservada, y modelos de estados financiero</u>

- **Transparency**. This circular introduces the possibility that the individual and consolidated public financial statements disclosure can be carried out by the BoS and not only by the credit institutions' associations.
- **Accounting criteria and reporting**. The circular introduces amendments to comply with the latest international financial reporting standards adopted by the EU. The main changes include:
    - The modification of the <u>business definition</u> to facilitate and simplify its application. This definition serves to determine whether or not the acquisition of a set of assets is treated as a business purchase. If the acquired set is treated as a business, an asset is recognised for goodwill or income for a negative difference:
        - In order to **qualify as a business**, the acquired set must include at least one economic resource and one substantive process that together contribute to the delivery of goods or services to customers.
        - Entities are allowed to choose to perform a **concentration test** to determine, with a simplified analysis, whether or not the acquired set of assets constitutes a business.
- **Individual reserved financial statements**. In order to adapt the financial statements to the entry into force of the EU regulations, certain changes are adopted affecting the individual financial statements reserved FI 1 to FI 45, whose main purpose, among others, is to collect the common financial information that supervised credit institutions have to submit to the European Central Bank (ECB) through the national authorities (NA). The adopted modifications are aimed to:
    - <u>Improve the information sent by institutions on doubtful and restructured exposures</u> and on guarantees granted.
    - <u>Complement the information on operational and administrative expenses</u> and on commission income and expenditure.
    - <u>Incorporate some minor changes in the information available on leases</u>, as a result of the entry into force of IFRS 16.
    - <u>Simplify some information requirements to entities</u>. Those branches in Spain of foreign credit institutions whose head office is located in a Member State of the European Economic Area (EEA) that have decided to apply the criteria for the valuation and provisioning of credit risk used by their head office and have informed the BoS accordingly are exempt from sending the credit risk provisioning statement.

2. Main points (cont.)

- **Reserved consolidated financial statements**. The requirements relating to the information to be reported by consolidable groups of credit institutions on their subsidiaries and joint ventures forming part of the consolidable group are reduced for prudential purposes, modifying the frequency of the balance sheets and income statements included in the activities of the subsidiaries and joint ventures from quarterly to half-yearly, eliminating the statement of equity and reducing the requirements established in the income statement. The statement of supplementary information on subsidiaries and joint ventures is introduced to request, on an annual basis, information on the number of employees of the subsidiaries and joint ventures.

Circular 3/2020 por la que se modifica la Circular 4/2017, a entidades de crédito, sobre normas de información financiera pública y reservada, y modelos de estados financieros

- **Credit risk analysis and provisioning**. This circular amends Annex 9 on the analysis and provisioning of credit risk so that restructured, refinanced or refinancing credit operations do not necessarily have to be classified as normal risk under special surveillance when their classification as doubtful risk is not appropriate. Such transactions may continue to be classified as normal risk provided that the entity justifies not having identified a significant increase in credit risk since its initial recognition.
  - The amendment will be applied prospectively to all restructuring or refinancing, including both transactions carried out before the date of its first application and new transactions carried out after that date.
  - The prospective application of the amendment means that institutions will not have to revise the classification or credit risk provisioning of transactions in financial information for reference dates prior to 30 June 2020 (or, where applicable, 31 March 2020), nor will they have to resubmit the accounting information for those dates or re-elaborate the comparative information for 2019.

3. Next steps

- Circular 2/2020 has **entered in force on 17 June 2020** and the first financial statements to be submitted to the BoS according to the models introduced or modified by this circular will be those corresponding to **30 June 2020**, with certain exceptions.
- Institutions shall adapt, where necessary, their accounting methodologies, procedures and practices to implement the amendments contained in Circular Letter 3/2020 from **30 June 2020** at the latest.

04/05/2020
Real Decreto-ley 15/2020 de medidas urgentes complementarias para apoyar la economía y el empleo

1. Context

As a result of the measures adopted following the declaration of the state of alarm in Spain on 14 March, many economic sectors have been forced to suspend or reduce their activity. This has led to a lack or reduction in income, which may result in the financial inability of self-employed and small and medium-sized enterprises (SMEs) to meet their rental and other business-related obligations, thus putting the continuity of their activities at risk.

In this context, the Spanish government has published **Royal Decree-Law 15/2020 on urgent complementary measures to support the economy and employment**, which contains a new set of measures that it reinforces, complements and extends those previously adopted and focuses on support for businesses and workers in order to respond to the needs for enhanced support arising from the prolongation of this exceptional situation, to continue to protect and support the productive and social fabric, to minimise the impact and to facilitate the recovery of economic activity as soon as this public health emergency begins to subside.

2. Main points

- **Measures to reduce the operating costs of SMEs and self-employed**. The natural or legal person renting a local for professional use may request a moratorium on payment from the owner, which must be accepted by it, as long as no agreement has already been reached between the two parties on a moratorium or reduction of rent. The characteristics of this moratorium are:
    - The owner must be a <u>company, public housing entity or large holder</u>, in all other cases the tenant may opt for other options, such as the use of the deposit.
    - The tenant's request must be made within <u>one month</u> of the entry into force of these regulations.
    - It will be <u>automatically applied</u> and will affect the period of time that the alarm state lasts and the following monthly payments, which can be extended up to a maximum of four months.
    - Deferral of payment shall not entail <u>any penalty or accrual of interest</u> and shall be repaid by dividing the instalments over a period of two years.

  The tenant must additionally meet the following requirements:
    - In the case of a rental contract for the <u>self-employed</u>:
        - To **be affiliated** and in a **situation of registration**, on the date of the declaration of the state of alarm.
        - That the **activity has been suspended** or the **income has dropped by 75%** as a result of the alarm situation.
    - In the case of a rental contract for <u>SMEs</u>:
        - Fulfill the conditions for formulating the simplified **balance sheet** and **statement of changes** in net assets.
        - That the activity **has been suspended** or **the income has dropped by 75%** as a result of the alarm situation.
- **Measures to strengthen business financing**. This Royal Decree also includes measures to strengthen liquidity support and expand its scope:
    - The Institute for the Diversification and Saving of Energy (IDAE) may agree to <u>grant deferrals of the instalments on loans taken out</u>.
    - The Insurance Compensation Consortium may <u>accept in reinsurance the risks assumed by private insurance companies</u> authorized to operate in the credit and surety insurance branches.

2. Main points (cont.)

- **Fiscal measures**.
  - With respect to Corporate Tax, it is allowed, for tax periods commencing on or after 1 January 2020 to exercise the option to make fractionated payments under certain conditions.
  - Also adapted, in proportion to the time period affected by the declaration of the state of alarm in the economic activities, is the calculation of the fractioned payments in the method of objective estimation of Personal Income Tax (IRPF) and the payment on account of the simplified VAT regime.
  - VAT is reduced to 4% on digital books, newspapers and magazines and to 0% for medical devices intended for the public sector.
- **Measures to protect citizens**. New protection measures are adopted:
  - Those workers whose contracts have been terminated during the trial period since 9 March, as well as those who have voluntarily terminated their contracts since 1 March because they had a confirmed job offer that did not materialize as a result of the COVID-19 situation, are considered to be legally unemployed.
  - It is also developed the extension of the contingencies in which the consolidated rights of the pension plans can be made effective.

3. Next steps

- This Royal Decree-Law came into force on **23 April 2020**.

25/05/2020
Climate Change and Energy Transition Law Project

1. Context

In 2016, Spain ratified the Paris Agreement on Climate Change, whose overall objectives are to keep the increase in global average temperature below 2°C compared to pre-industrial levels, to ensure the consistency of financial flows with the new development model and to increase the capacity to adapt to the adverse effects of climate change and to promote resilience. In line with the 2030 Agenda for Sustainable Development, in December 2019 the EU published the European Green Deal which sets out a new growth strategy aimed at transforming the EU into a fair and prosperous society with a modern, resource-efficient and competitive economy, and with the final goal of making the EU become the first climate-neutral continent by 2050.

In this context, the Government of Spain has submitted to the Spanish Parliament for debate and eventual approval the **Climate Change and Energy Transition Law Project**, which aims to ensure compliance with the objectives of the Paris Agreement of 2015, facilitate the decarbonisation of the Spanish economy, so as to guarantee the rational and supportive use of resources, to promote adaptation to the impacts of climate change and the implementation of a sustainable development model that generates quality employment.

2. Main points

- **Goals for emission reduction, renewable energy and energy efficiency** by 2030:
    - Reduce the greenhouse gas emissions of the Spanish economy by at least 20% with respect to 1990.
    - To achieve a minimum of 35% share of renewable energies in final energy consumption.
    - To achieve an electrical system with at least 70% of its production coming from renewable energies.
    - Improve energy efficiency through the reduction of the primary energy consumption by at least 35% compared to the baseline under EU regulations.

  In addition, by 2050, Spain must achieve climate neutrality and the electrical system must be based exclusively on renewable sources of generation.
- **Renewable energy and energy efficiency**. The integration of renewable technologies into the electrical system (e.g. reversible hydroelectric plants) and the use of energy from renewable sources in the construction field will be promoted.
- **Energy and fuel transition**.
    - No new exploration authorizations, hydrocarbon research permits or concessions for their exploitation will be granted and the application of new tax benefits to energy products of fossil origin must be properly justified (e.g. reasons of social or economic interest, among others).
    - Annual goals will be established for the supply of biofuels in air transport and measures will be taken to promote the use of advanced biofuels and other renewable fuels of non-biological origin.
- **Emission-free mobility and transport**. Measures will be taken to:
    - To achieve a fleet of cars and commercial vehicles without direct emissions of CO_2.
    - Reducing emissions from mobility with measures such as the establishment of a low emission zone for vehicles.
    - Create electric recharging points at certain fuel supply facilities.
    - Gradually reducing emissions generated by the consumption of fossil fuels by marine vessels.
    - The articulation and consolidation of sustainable logistics chains.

2. Main points (cont.)

- **Integration of climate change risk in entities**. Institutions whose securities are admitted to trading on regulated markets, credit institutions, insurance and reinsurance institutions and companies by reason of their size shall submit an annual report assessing the financial impact on the institution of the risks associated with climate change generated by the exposure to climate change of their business, including the risks of the transition to a sustainable economy and the measures taken to address those risks. The content of the report shall include the following aspects:
    - The organization's governance structure, including the role played by its various bodies, in relation to the identification, assessment and management of risks and opportunities related to climate change.
    - The strategic approach of the entities to manage the financial risks associated with climate change and identifying the actions required to mitigate such risks.
    - The actual and potential impacts of climate change risks and opportunities on the organization's activities and strategy, as well as on its financial planning.
    - The processes for identifying, assessing, controlling and managing climate-related risks and how these are integrated into its global business risk analysis and its integration into the organisation's global risk management.
    - The metrics, scenarios and objectives used to assess and manage relevant climate change risks and opportunities.

  Credit institutions will also have to publish the specific goals for decarbonisation of their loan and investment portfolio.
- **Resources and public procurement**. A minimum percentage of public resources allocated to the fight against climate change is set and environmental criteria shall be incorporated in a cross-cutting and mandatory manner in public procurement processes when they are related to the subject matter of the contract.
- **Fair Transition Measures**. Every five years, the Government will approve the Fair Transition Strategy and its objective is to optimize opportunities for activity and employment in the transition to an economy with low greenhouse gas emissions, to identify and adopt measures to ensure equitable and supportive treatment of workers and territories in that transition.

3. Next steps

- The Government of Spain has submitted this law project to the Spanish Parliament and it is pending to be discussed and approved. Once it was approved, it would enter into force **the day after its publication in the Official State Bulletin (BOE)**.
- In the following months, the Spanish Government will approve the **National Integrated Energy and Climate Plan (PNIEC)**, the **National Climate Change Adaptation Plan (PNACC)** and the **2050 Decarbonisation Strategy**.

01/06/2020
Real Decreto-ley 19/2020 por el que se adoptan medidas complementarias en materia agraria, científica, económica, de empleo y Seguridad Social y tributarias para paliar los efectos del COVID-19

1. Context

The health crisis resulting from the outbreak of COVID-19 has forced the adoption of public health measures that have altered the normal development of social, economic and productive activities in Spain. In particular, it is noteworthy how the suspension of all non-essential activities and the limitations on the performance of many others have led to a significant increase in short-term unemployment and a reduction in the activity of SMEs and the self-employed. As a result, the Spanish Government has been adopting a series of measures in various fields to alleviate the effects of the economic paralysis since the state of alarm was declared on 14 March.

In this context, the Spanish Government has published **Royal Decree Law 19/2020 adopting complementary measures in the agricultural, scientific, economic, employment and social security and tax fields to alleviate the effects of COVID-19**, which approves various measures such as the payment deferrals for communication services or the submission of the corporate tax when the available annual accounts have been approved. This Royal Decree-Law also incorporates a special regime for moratorium agreements reached between lenders and their customers with the aim of promoting the application of measures and agreements to defer credit and loan payments with a broader scope than that initially established.

2. Main points

- **Payment deferrals in the communications service**. Electronic communications operators must grant their customers, on request, payment by instalments and, consequently, the deferral of the debt corresponding to the invoices submitted for payment as from the date of entry into force of the state of alarm.
- **Guarantees**. The granting of guarantees is authorised within the framework of the European Temporary Support Instrument to mitigate unemployment risks in an emergency (SURE) and budgetary support is provided for the execution of guarantees granted by the Ministry of Economic Affairs and Digital Transformation on the basis of the RD on extraordinary urgent measures to deal with the economic and social impact of COVID-19.
- **Sectoral framework agreements on loan deferrals**. Conventional deferrals between the debtor and his financial institution under a Sector Framework Agreement may cover all types of loans, credits and financial leases. In addition, the RD notes that individuals who are in a situation of financial vulnerability due to COVID-19 and can apply for the payment deferrals are both consumers and self-employed workers. These provisions shall only apply to financial institutions adhering to Sector Framework Agreements for conventional moratoria with their debtors as a result of the health crisis resulting from the COVID-19. These provisions set out that:
    - Institutions that adhere to a Sector Framework Agreement shall send information set out in this law which related to the granting of conventional payment deferrals to the Bank of Spain (BoS) every working day. Regarding the reporting requirements established for legal payment deferrals, this RD incorporates two additional requirements for conventional deferrals, they are the number of suspensions denied and the number of loans in which the debtor requests that the suspension be documented in a notarial deed.
    - Financial leasing contracts are added within the scope of application of this RD for the non-mortgage moratorium.
    - It may be agreed, without affecting the accrual of interest agreed in the initial loan contract, that the amount of the deferral shall be paid by:
        - The **redistribution of the installments** without changing the maturity date.
        - The **extension of the maturity date** by a number of months equivalent to the duration of the moratorium.

2. Main points (cont.)

- The debtor and the creditor may agree to extend, under the same conditions and premium initially agreed for the payment protection or loan protection insurances that had been taken out, the loan that is novated for the same period of time in which the maturity of the loan is extended, consequently debit of the premium.
- Payment deferrals cannot include or modify the contractual terms of initial loan (except the duration of the contract), it implies not to change the agreed interest rate, charge expenses or fees with certain exceptions such as interest-free loans or premiums for renewals of insurance contracts, commercialize another unit-linked product or provide additional guarantees not included in the original contract.
- When the financial entity grants a legal payment deferral and a conventional payment deferral, the second agreement signed with the debtor will expressly include recognition of the legal moratorium, suspending the effects of the conventional payment deferral until the time when the it ends.
- Prior to the establishment of the payment deferral agreement, the creditor must provide the obligor with simplified information on the conditions of the loan, together with the proposal for an agreement to establish the conventional moratorium, which must at least include the legal and economic consequences of the deferral and the conditions for extending the payment protection or loan repayment insurance that was initially taken out with the loan.
- When the moratorium only provides a deferment of the principal or principal and interest of a secured loan or credit or a financial lease whose registration requires the filing of a public document, the financial institution shall unilaterally raise the moratorium agreement signed by the debtor to public status provided that the deferral is implemented by extending the deadline and that the obligor has informed expressly that he did not go to the notary's office.

- **Submission of the Corporate Income Tax**. Corporate income taxpayers whose deadline for the preparation and approval of the annual accounts for the year meets the requirements, may file a corporate income tax return for the relevant tax period within 25 calendar days of the 6 months following the end of the tax period. If, at the end of the latter period, the annual accounts have not been approved by the corresponding governing body, the tax return will be made using the available annual accounts.

3. Next steps

- This royal decree-law came into force on **28 May 2020**.

14/04/2020

- **Final Rule: Six months delay of the effective date for the revised control framework**
- **Establishment of a temporary FIMA Repo Facility to help support the smooth functioning of financial markets**

1. Context

The Fed has published a **Final Rule delaying the effective date of the framework revision for determining whether a company controls another company for purposes of the Bank Holding Company Act (BHCA) or the Home Owners' Loan Act (HOLA)** with the aim of reducing the operational burdens and allow institutions to focus on current economic conditions. Furthermore, the Fed has announced the establishment of a **temporary repurchase agreement (Repo) facility for Foreign and International Monetary Authorities (FIMA)** to help support the smooth functioning of financial markets including the US Treasury market, and thus maintain the supply of credit to US households and businesses.

2. Main points

Final Rule: Six months delay of the effective date for the revised control framework

- **New effective date**. The Fed is delaying the effective date of the Final Rule for determining whether a company controls another company for purposes of the BHCA or the HOLA by two quarters, which should provide companies affected by the new control rule additional time to analyze the impact of the rule on existing investments and relationships. As a consequence of this change, the effective date for the final rule is delayed until September 30, 2020.

Establishment of a temporary FIMA Repo Facility to help support the smooth functioning of financial markets

- **Elegibility to participate**. The institutions eligible to apply to use the facility are most FIMA account holders, which consist of central banks and other foreign monetary authorities with accounts at the Federal Reserve Bank of New York (FRBNY). Applications for usage of the facility must be approved by the Fed.
- **Functioning of the FIMA Repo Facility**. The FIMA repo facility would allow foreign central banks to temporarily raise dollars by selling US Treasuries to the Fed's System Open Market Account and agreeing to buy them back at the maturity of the repurchase agreement. The term of the agreement will be overnight, but can be rolled over as needed. The transaction would be conducted at an interest rate of 25 basis points over the rate on Interest on Excess Reserves (IOER), which generally exceeds private repo rates when the Treasury market is functioning well, so the facility would primarily be used only in unusual circumstances such as those prevailing at present.

3. Next steps

- The effective date for the Final Rule is delayed until **September 30, 2020**.
- The FIMA Repo Facility will be available **beginning April 6** and will continue for at least **6 months**.

20/04/2020

- **Regulatory reporting relief to small financial institutions affected by the coronavirus (Fed)**
- **Notice on Standardized Approach for Calculating the Exposure Amount of Derivative Contracts (Fed, OCC, FDIC, Treasury)**
- **Regulatory Capital Rule: Revised Transition of the Current Expected Credit Losses Methodology for Allowances (Fed, OCC, FDIC, Treasury)**
- **Regulatory Capital Rule: Temporary Changes to the Community Bank Leverage Ratio Framework (Fed, OCC, FDIC, Treasury)**
- **Regulatory Capital Rule: Transition for the Community Bank Leverage Ratio Framework (Fed, OCC, FDIC, Treasury)**
- **Interagency Statement on Loan Modifications and Reporting for Financial Institutions Working with Customers Affected by the Coronavirus (Fed, OCC, FDIC, CFPB, NCUA)**
- **Interagency Statement on Appraisals and Evaluations for Real Estate Related Financial Transactions Affected by the Coronavirus (Fed, OCC, FDIC, CFPB, NCUA)**
- **Interim Final Rule on Real Estate Appraisals (Fed, OCC, FDIC, Treasury)**

1. Context

Since the beginning of March 2020, various agencies at both the local and supranational levels have begun to issue measures to mitigate the possible impact that the COVID-19 could have on the economy. In the US, the federal agencies are coordinating a joint effort to publish a series of measures and recommendations, specially the Fed, FDIC, OCC and Treasury.

In this context, the Fed has published a **Regulatory reporting relief to small financial institutions affected by the coronavirus** with the aim of offering additional time to submit certain regulatory reports in light of staffing priorities and disruptions caused by the COVID-19. Furthermore, the Fed, OCC, FDIC and Treasury (the agencies) have issued a **Notice on Standardized Approach for Calculating the Exposure Amount of Derivative Contracts**, the **Interim Final Regulatory Capital Rule: Revised transition of the current expected credit losses methodology for allowances**; **Temporary Changes to the Community Bank Leverage Ratio Framework**; **Transition for the Community Bank Leverage Ratio Framework** and the **Interim Final Rule on Real Estate Appraisals** with the aim to support the U.S. economy and allow banking organizations to continue lending to households and businesses. Additionally, the Fed, OCC, FDIC, CFPB and the NCUA have published the **Interagency Statement on Loan Modifications and Reporting for Financial Institutions Working with Customers Affected by the Coronavirus** and the **Interagency Statement on Appraisals and Evaluations for Real Estate Related Financial Transactions Affected by the Coronavirus**.

2. Main points

<u>Regulatory reporting relief to small financial institutions affected by the coronavirus</u>

- **Consolidated financial statements**. The Fed will not take action against a financial institution with $5 billion or less in total assets for submitting its March 31, 2020, Consolidated Financial Statements for Bank Holding Companies (FR Y-9C) or Financial Statements of U.S. Nonbank Subsidiaries of U.S. Bank Holding Companies (FR Y-11) after the official filing deadline, as long as the applicable report is submitted within 30 days of the official filing due date.

<u>Notice on Standardized Approach for Calculating the Exposure Amount of Derivative Contracts</u>

- **Implementation of SAA-CCR**. The agencies are allowing banking organizations to implement the SA-CCR rule, including the SA-CCR methodology and the other amendments, on a best efforts basis immediately. A banking organization that elects to adopt the SA-CCR methodology must adopt the SA-CCR methodology for all derivative contracts; it cannot implement the SA-CCR methodology for a subset of its derivative contracts. However, a banking organization may adopt some of the other amendments described in the SA-CCR rule regardless of whether it chooses to early adopt the SA-CCR methodology.

2. Main points (cont.)

Revised Transition of the Current Expected Credit Losses Methodology for Allowances

- **Current expected credit loss (CECL)**. The interim final rule provides banking organizations that adopt CECL during the 2020 calendar year with the option to delay for two years the estimated impact of CECL on regulatory capital, followed by a three-year transition period to phase out the aggregate amount of the capital benefit provided during the initial two-year delay (i.e., a five-year transition, in total). Banking organizations that have already adopted CECL have the option to elect the three-year transition option contained in the 2019 CECL rule or the five-year transition contained in the interim final rule, beginning with the March 31, 2020, Call Report or FR Y-9C.
- **Approximating the impact of CECL**. The interim final rule provides a uniform approach for estimating the effect of CECL during the five-year transition period. Specifically, the interim final rule introduces a scaling factor that approximates the average after-tax provision for credit losses attributable to CECL, relative to the incurred loss methodology, in a given reporting quarter. The interim final rule uses a 25 percent scaling factor as an approximation of the impact of differences in credit loss allowances reflected under CECL versus the incurred loss methodology.

Changes to the community bank leverage ratio

- **Leverage ratio**. The interim final rules will modify the community bank leverage ratio framework so that:
    - Beginning in the second quarter 2020 and until the end of the year, a banking organization that has a leverage ratio of 8 percent or greater and meets certain other criteria may elect to use the community bank leverage ratio framework.
    - Community banking organizations will have until January 1, 2022, before the community bank leverage ratio requirement is re-established at greater than 9 percent.
- **Gradual transition**. Under the interim final rules, the community bank leverage ratio will be 8 percent beginning in the second quarter and for the remainder of calendar year 2020, 8.5 percent for calendar year 2021, and 9 percent thereafter. The interim final rules also maintain a two-quarter grace period for a qualifying community banking organization whose leverage ratio falls no more than 1 percent below the applicable community bank leverage ratio.

Revised Interagency Statement on Loan Modifications and Reporting for Financial Institutions Working with Customers Affected by the Coronavirus

- **General Safety and Soundness**. The agencies encourage financial institutions to work with borrowers and will not criticize institutions for doing so in a safe and sound manner. The agencies view prudent loan modification programs offered to financial institution customers affected by COVID-19 as positive and proactive actions that can manage or mitigate adverse impacts on borrowers, and lead to improved loan performance and reduced credit risk.
- **Accounting and Reporting**. If a loan modification is not eligible under Coronavirus Aid, Relief, and Economic Security Act, or if the institution elects not to account for the loan modification under that Act, the financial institution should evaluate whether the modified loan is a troubled debt restructuring (TDR). Financial institutions may presume that borrowers are not experiencing financial difficulties at the time of the modification for purposes of determining TDR status if:
    - The modification is in response to the National Emergency.
    - The borrower was current on payments at the time the modification program is implemented.
    - The modification is short-term (e.g., six months).
- **Discount Window Eligibility**. The agencies remark that loans that have been restructured will generally continue to be eligible as collateral at the Federal Reserve Board's (FRB) discount window.
- **Consumer Protection**. The agencies encourage financial institutions to consider prudent arrangements that can ease cash flow pressures on affected borrowers, improve their capacity to service debt, increase the potential for financially stressed residential borrowers to keep their homes, and facilitate the financial institution's ability to collect on its loans.

2. Main points (cont.)

Appraisals and evaluations for real estate related financial transactions affected by the coronavirus

- **Real Estate appraisals**. The agencies are deferring certain appraisals and evaluations for up to 120 days after closing of residential or commercial real estate loan transactions. Transactions involving acquisition, development, and construction of real estate are excluded from this interim rule.
- **Exceptions on appraisal regulations**. The agencies encourage financial institutions to make use of the exceptions to the requirement for an appraisal by a certified or licensed appraiser. Exceptions that lenders may find the most useful during the COVID-19 emergency for real-estate related financial transactions include:
    - A residential real estate loan with a transaction value of $400,000 or less.
    - A commercial real estate loan transaction with a transaction value of $500,000 or less.
    - A business loan that has a transaction value of $1 million or less where the loan does not depend on the sale of, or rental income derived from, real estate as the primary source of repayment.

3. Next steps

- The Notice on standardized approach for calculating the exposure amount of derivative contracts will be effective **since its publication on the federal register**.
- Comments on the interim final rule on Revised transition of the current ECL methodology for allowances must be received no later than **45 days after its publication on the federal register**.
- Comments on the interim final rules on Changes to the community bank leverage ratio must be received no later than **45 days after its publication on the federal register**.
- The temporary provisions on Real Estate appraisals will **expire on December 31, 2020**, unless extended by the federal banking agencies.

25/05/2020

Regulatory Capital Rule: Temporary Exclusion of U.S. Treasury Securities and Deposits at Federal Reserve Banks from the Supplementary Leverage Ratio for Depository Institutions

1. Context

The spread of the coronavirus disease 2019 has significantly and adversely affected global financial markets, including depository institutions' role as financial intermediaries. In particular, the current health crisis have caused depository institutions' balance sheets to expand to accommodate inflows of deposits.

In this context, the Fed, FDIC and OCC (the Agencies) have published the **Regulatory Capital Rule on Temporary Exclusion of US Treasury Securities and Deposits at Federal Reserve Banks from the Supplementary Leverage Ratio (SLR) for Depository Institutions** with the aim of establishing temporary modifications that will provide flexibility to certain depository institutions to expand their balance sheets in order to provide credit to the real economy.

2. Main points

- **Scope**. Depository institutions subsidiary of a US global systemically important bank (G-SIB) holding company or any depository institution subject to Category II (includes those with at least $700 billion in total consolidated assets or at least $75 billion in cross-jurisdictional activity and at least $100 billion in total consolidated assets) or Category III (includes those with at least $250 billion in average total consolidated assets or at least $100 billion in average total consolidated assets and at least $75 billion in average total nonbank assets, average weighted short-term wholesale funding; or average off-balance sheet exposure) capital standards.
- **Total leverage exposure**. The agencies are issuing this interim final rule to provide depository institutions subject to the SLR the ability to exclude temporarily US Treasury securities and deposits at Fed Banks from the calculation of the SLR. The Tier 1 LR is not affected by this interim final rule.
- **Capital distributions**. A depository institution that opts into this treatment would be required to obtain approval from its primary Federal banking regulator before making a distribution or creating an obligation to make such a distribution so long as the temporary exclusion is in effect. The primary Federal banking regulator will consider all relevant factors, including whether any distribution would be contrary to safety and soundness and limitations on distributions in the existing rules applicable to the electing depository institution.

3. Next steps

- The interim final rule is **effective as of the date of Federal Register publication** and will remain in effect through **March 31, 2021**.
- Depository institutions must notify its primary Federal banking regulator of its election to adopt the temporary exclusion within **30 days** after the interim final rule is effective.

25/05/2020

- **Interagency Policy Statement on Allowances for Credit Losses**
- **Interagency Guidance on Credit Risk Review Systems**

1. Context

In 2016 the Financial Accounting Standards Board (FASB) issued the Accounting Standards Update (ASU) that set the loss methodology for credit losses. After the publication of these standards, the FASB published updates related to credit losses which would maintain conformance with the generally accepted accounting principles (GAAP) and FASB Accounting Standards Codification (ASC).

In this context, after the consultation launched in October 2019, the Agencies have issued the **Interagency Policy Statement (PS) on allowances for credit losses (ACLs)** with the aim of promoting consistency in the interpretation and application of the FASB credit losses accounting standard, which introduces the current expected credit losses (CECL) methodology. In particular, this policy statement describes the measurement of ECL, the design, documentation and validation for ECL estimation processes, including the internal controls over these processes, the maintenance of appropriate ACLs, the responsibilities of boards of directors and managements, and examiner reviews of ACLs.

In addition, the Agencies have also issued the **Interagency Guidance on credit risk review systems** in order to present principles for establishing a system of independent, ongoing credit risk review in accordance with safety and soundness standards.

2. Main points

Interagency Policy Statement on Allowances for Credit Losses

- **Scope**. The credit losses accounting standard applies to all banks, savings associations, credit unions, and financial institution holding companies regardless of size, that file regulatory reports for which the reporting requirements conform to GAAP.
    - The CELC methodology applies to financial assets measured at amortized cost, net investments in leases, and off-balance-sheet credit exposures (collectively, financial assets).
    - The CELC methodology does not apply to the following financial assets: financial assets measured at fair value through net income, available-for-sale debt securities, loans held-for-sale, policy loan receivables of an insurance entity, loans and receivables arising from operating leases.
- **Measurement of ACLs for loans, leases, held-to-maturity debt securities, and off-balance-sheet credit exposures**. An ACL is a valuation account that is deducted from, or added to, the amortized cost basis of financial assets to present the net amount expected to be collected over the contractual term of the assets. ACLs are evaluated as of the end of each reporting period. In particular, this PS covers, among others, the following aspects of the measurement of ACL's: collective evaluation of expected losses, estimation methods for ECLs, historical loss information or financial assets with zero credit loss expectations.
- **Measurement of the ACL for available-for-sale debt securities**. This PS establishes that credit losses for available-for-sale debt securities are evaluated as of each reporting date when the fair value is less than amortized cost. It requires credit losses to be calculated individually, rather than collectively, using a discounted cash flow method, through which management compares the present value of expected cash flows with the amortized cost basis of the security. An ACL is established, with a charge to the provisions for credit losses (PCL), to reflect the credit loss component of the decline in fair value below amortized cost. If the fair value of the security increases over time, any ACL that has not been written off may be reversed through a credit to the PCL. The ACL for an available-for-sale debt security is limited by the amount that the fair value is less than the amortized cost, which is referred to as the 'fair value floor'.

2. Main points (cont.)

- **Documentation standards**. This PS establishes that for financial and regulatory reporting purposes, ACLs and PCLs must be determined and should be well documented, with clear explanations of the supporting analyses and rationale. Further, sound policies, procedures, and control systems should be appropriately tailored to an institution's size and complexity (organizational structure, business environment and strategy, risk appetite, among others). In particular, an institution's policies and procedures for the systems, processes and controls necessary to maintain appropriate ACLs should address, among others, processes that support the determination and maintenance of appropriate levels for ACLs, and processes for determining and revising the appropriate techniques and periods to revert to historical credit loss information.
- **Analyzing and validating the overall measurement of ACLs**. This PS establishes that the management should document its measurements of the amounts of ACLs reported in regulatory reports and financial statements, if applicable, for each type of financial asset and for off-balance-sheet credit exposures. The board of directors, or a committee thereof, should review management's assessments of and justifications for the reported amounts of ACLs.
- **Examiner review of ACLs**. Examiners are expected to assess the appropriateness of management's loss estimation processes and the appropriateness of the institution's ACL balances as part of their supervisory activities.

<u>Interagency Guidance on Credit Risk Review Systems</u>

- **Elements of an effective credit risk review system**. This guidance establishes that an effective credit risk review system starts with a written credit risk review policy. In particular, these policies include a description of the overall risk rating framework and establish responsibilities for loan review based on the portfolio being assessed, and addresses the following elements:
  - <u>Qualifications of credit risk review personnel</u>. Personnel must be qualified in both sound lending practices and the institution's lending guidelines for the types of loans offered by the institution.
  - <u>Independence of credit risk review personnel</u>. An effective credit risk review must incorporates both the initial identification of emerging problem loans by loan officers and other line staff, and an assessment of loans by personnel independent of the credit approval process.
  - <u>Frequency</u>. Review and evaluation of an institution's significant loans, loan products, or groups of loans are typically made in an annual basis, on renewal, or more frequently when internal or external factors indicate a potential for deteriorating credit quality or the existence of one or more other risk factors.
  - <u>Scope</u>. A properly designed scope considers the current market conditions or other external factors that may affect a borrower's current or future ability to repay the loan.
  - <u>Depth of review</u>. Loans and portfolio segments selected for review are typically evaluated for Credit quality, soundness of underwriting and risk identification, borrower performance, and adequacy of the sources of repayment, among other things.
  - <u>Review of findings and follow-up</u>. An effective system includes processes for all noted deficiencies and weaknesses that remain unresolved beyond the scheduled time frames for correction to be promptly reported to senior management and the board of directors or appropriate board committee.
  - <u>Communication and distribution of results</u>. Effective communication also typically involves providing results of the credit risk reviews to the board of directors or appropriate board committee quarterly.

3. Next steps

- The interagency policy statement on allowances for credit losses **is effective** at the time of each **institution's adoption of FASB accounting standards on credit losses**.

BANK OF ENGLAND
PRUDENTIAL REGULATION AUTHORITY

01/06/2020
Policy Statement 11/20 on credit risk: Probability of Default and Loss Given Default estimation

1. Context

In September 2019, the PRA published a Consultation Paper (CP) 21/19 on credit risk which updated the Supervisory Statement (SS) 11/13 on Internal Rating Based (IRB) by implementing a set of the European Banking Authority (EBA) regulatory products that relate to probability of default (PD) estimation and loss given default (LGD) estimation.

In this context, the PRA has published a **Policy Statement (PS) 11/20 on credit risk: PD and LGD estimation** which updates again the SS 11/13 on IRB with the feedback received to the CP 21/19. In particular, the main changes to the policy are: i) extending the implementation deadlines for the EBA roadmap and the mortgage hybrid approach; ii) amending the approach to discounting cured exposures; and iii) accepting temporary divergence between accounting impairment models and approved IRB models for defaulted exposures, due to the need to make timely changes to impairment models. Further, this document Policy Statement clarifies the use of Sterling Overnight Index Average (SONIA).

2. Main points

- **Implementation deadlines**. The PRA, taking in consideration the feedback provided and the implications of COVID-19, has decided to extend the implementation deadline for all changes to residential and non-residential mortgage exposures by one year and one day to 1 January 2022. In particular, this change in the deadlines applies to the following regulatory changes:
    - Definition of default and PD and LGD estimation, both for residential and non-residential mortgage exposures.
    - Mortgage hybrid approach, only for residential mortgage exposures.

  However, this new deadlines applies only to firms using the IRB approach, because for firms only using the SA approach the deadline for the materiality threshold is on the 31 December 2020, both for residential and non-residential mortgage exposures. Nonetheless, for the definition of default for these firms, the deadline is the same as before, which is 1 January 2022.
- **Recognition of local regulatory approaches for calculating group consolidated capital requirements**. With respect to the questions presented by the stakeholders regarding that whether for IRB models used by non-UK subsidiaries of UK groups, the PRA would permit the non-UK solo capital requirements calculated using local IRB requirements to also be used in the UK group consolidated capital requirement calculation. Additionally, one respondent asked about the reverse case where a UK firm has a parent organisation in a different EEA jurisdiction. In this sense, the PRA has provided the following feedback:
    - The joint decision process of the CRR applies until the end of the transition period following the UK's withdrawal from the EU on Thursday 31 December 2020.
    - The PRA will clarify its approach on the treatment of overseas models post-Thursday 31 December 2020 at a later date.
    - The policy that permits UK firms to apply the definition of default materiality thresholds set by other prudential regulators in their group consolidated capital requirements on the basis that the thresholds should be tailored to local market characteristics, economic conditions and financial risk is still applicable.
- **Approach to discounting cured exposures**. In the CP 21/19, the PRA proposed that firms should only include accrued interest up to the moment of cure when calculating the artificial cash flow (defined in the Guidelines (GL) on PD & LGD), a process that is called discounting cured exposures. In response to the feedback received from the CP, the PRA has decided to make the following amendments to its first proposal:
    - Apply the proposed approach to calculating the value of interest payments to other components of the artificial cash flow. Therefore, the artificial cash flow should reflect: i) principal, ii) interest, iii) fees, iv) additional observed recoveries, v) additional drawings, and vi) costs.
    - Remove the "independence period" from the definition of the "minimum cure period", which will be now referred as the "probation period".
    - Align the "accrual period" (i.e. the period in which the components of the artificial cash flow are accrued) with the "discounting period" (i.e. the period over which the artificial cash flow is discounted).

2. Main points (cont.)

- **Treatment of defaulted exposures**. The PRA, in relation with the proposal to delete its existing expectations for the treatment of defaulted exposures and taking in consideration the feedback made to this decision, has decided that:
    - It is not necessary for firms to develop new, separate or original IRB models for defaulted exposures, provided that firms can demonstrate the model used either satisfies or can be adjusted to satisfy the requirements for own-LGD estimates in the CRR.
    - All new IRB models and changes to existing IRB models require PRA approval or notification. Where a firm is using an impairment model as their Best Estimate of Expected Loss (ELBE) or LGD in-default model, there may need to be temporary divergence between the impairment model and the approved IRB model due to the need to make timely changes to accounting impairment models.
    - Firms should submit appropriate documentation for all new IRB models and changes to existing IRB models in line with regulatory requirements, in order to demonstrate compliance with the CRR and relevant RTSs, GL and PRA SSs.
- **Availability of the approaches under Section 7 of the GL on downturn LGD estimation where observed or estimated impact is not available**. In this regard, the PRA has decided to maintain the proposed policy, clarifying that even if an approach under Section 7 of the GL on downturn LGD were applied, firms would still be required to produce a downturn LGD model that is fully compliant with the CRR and the relevant RTSs, GLs and PRA SSs.

3. Next steps

- The policy set out in this PS will take effect from **1 January 2022**.

BANK OF ENGLAND
PRUDENTIAL REGULATION AUTHORITY

01/06/2020
Statement re guidance on the application of regulatory capital and IFRS 9 requirements to payment holidays granted or extended to address the challenges of Covid-19

1. Context

On March 2020, the Bank of England (BoE) and Prudential Regulation Authority (PRA) announced a number of supervisory and prudential policy measures aimed at addressing the challenges of Covid-19. Particularly, the PRA wrote to the CEOs of UK banks and building societies (firms) providing guidance on, among other things, the application of expected credit loss (ECL) and of the regulatory definition of default in the context of Covid-19. Much of the previous guidance dealt with the treatment of the payment holidays or deferrals and the first payment deferrals are now coming to an end, therefore, the FCA has published a draft form updated guidance on how lenders should treat borrowers at the end of the initial deferral period.

In this context, the PRA has published a **Statement re guidance on the application of regulatory capital and IFRS 9 requirements to payment holidays granted or extended to address the challenges of COVID-19** which sets out the PRA's high-level view on the implications of that draft updated guidance from FCA for the guidance issued on March 2020, and on accounting and the regulatory definition of default more generally.

2. Main points

- **Treatment of payment deferrals, extensions to payment deferrals and exit from payment deferrals**. According to PRA's view, the eligibility for, and use of, Covid-19 related payment deferrals or extensions to those deferrals granted in accordance with the FCA's proposed guidance would not automatically result in a loan: i) being regarded as having suffered a significant increase in credit risk (SICR) or being credit-impaired for ECL purposes, or ii) triggering a default under CRR.
- **Regulatory definition of default**. In order to assess the treatment of payment deferrals, this statement set out the definition of default distinguishing between:
    - Borrowers able to resume full payments: the PRA would not expect them to be regarded as being in default for CRR purposes provided payments are made under an agreed revised schedule.
    - Borrowers unable to resume full payments: the PRA does not consider the use of a COVID-19 related payment deferral granted in accordance with the FCA's proposed guidance as triggering the counting of days past due, as generating arrears under CRR nor considering unlikely to pay under CRR. In particular, for the purpose of assessing unlikeliness to pay, it is expected from firms to place significant weight on information they have as to the reason why a borrower is unable to resume full payments at the end of the payment deferral, and not to focus only on the type of further measures applied. Furthermore, in applying CRR, it is important for firms to consider the distinction between:
        - **Borrowers who do not resume full payments** due to direct COVID-19 related issues that can reasonably be expected to be **temporary**. In this case, firms should take a **proportionate approach** to the assessment of unlikeliness to pay for this cohort of borrowers that appropriately reflects their **expected longer term ability to pay**.
        - **Borrowers who do not resume full payments** due to financial difficulty that is likely to be more **long term**. Firms would then need to assess whether this results in a distressed restructuring that is likely to result in a **diminished financial obligation and therefore a default**.
- **Identifying whether a significant increase in credit risk or credit impairment has occurred for IFRS 9**. The implementation of IFRS 9's ECL requirements follows three basic principles:
    - ECL should be implemented well and on the basis of the most robust, reasonable and supportable assumptions in the current environment in order to enhance consistency and reduce the risk of firms recognising inappropriate levels of ECL.
    - Forward-looking assessments need to take a balanced view of both the potential impact of the virus and the unprecedented level of support provided by governments and central banks domestically and internationally to protect the economy.
    - The assumptions that have been used in implementing ECL prior to COVID-19 and related actions should not be applied mechanically to the current circumstances.

  As the PRA consider that eligibility for COVID-19 related payment deferrals or would not automatically result in a loan being regarded as having suffered a SICR or being credit-impaired for ECL purposes, it notes that it is necessary to consider other SICR and credit impairment indicators beyond the borrower is past-due. The main reason is that it is important to distinguish borrowers using payment deferrals to manage temporary difficulties in making near-term payments from other borrowers, because some of the borrowers using payment deferrals to manage temporary difficulties in making near-term payments might not have suffered a SICR or be credit-impaired.

3. Next steps

- More details will be provided when the **FCA has finalised its guidance** on mortgages and coronavirus, which deals with how lenders should treat borrowers at the end of the initial deferral period.

BANK OF ENGLAND
PRUDENTIAL REGULATION AUTHORITY

02/06/2020
Supervisory Statement 1/20 on Solvency II: Prudent Person Principle

1. Context

On 2009, the Solvency II Directive was released, and it introduced the "prudent person principle" which requires insurers to invest their assets held for regulatory purposes so as to ensure the security, quality, liquidity and profitability of their portfolio as a whole, which includes the need to be adequately diversified. Furthermore, this principle sets objective standards for prudent investment in relation to portfolio diversification, the use of financial derivatives, exposure to non-regulated markets and risk concentration, asset-liability matching and the security, quality and profitability of the whole investment portfolio.

In this context, the PRA has published a **Supervisory Statement (SS) 1/20 on Solvency II: Prudent Person Principle (PPP)** which sets out the PRA's expectations on firms in accordance with the requirements under the PPP under the Solvency II Directive regarding: i) their development and maintenance of an investment strategy; ii) their management of risks arising from investments and their internal governance within the investment function; and iii) their investment in assets not admitted to trading on a regulated market (hereafter "non-traded assets") and intragroup loans and participations.

2. Main points

- **Investment strategy**. The PRA expects firms to develop and document an investment strategy which describes at least:
    - Setting the investment objectives and strategic asset allocation, considering the investment constraints.
    - Alignment of the investment strategy with the business model and, where appropriate, how the strategy takes into account the nature and duration of a firm's liabilities and obligations, and the best interests of policyholders.
    - Alignment of investment strategy with board risk appetite, risk tolerance limits and investment risk and return objectives.
    - A complete list of assets and how those assets have been invested in accordance with the PPP.

  In addition, firms should review their investment strategy on an annual basis, which should challenged, approved and controlled by the board or relevant sub-committee of the board.
- **Investment risk management**. In this SS it is established that firms may only invest in assets the risks of which they are able to identify, measure, monitor, manage, control, report and take into account in their assessment of own solvency needs in the own risk and solvency assessment (ORSA). Furthermore, this SS sets out rules for:
    - Investment Risk Management Policy. The risk management system, in accordance with Solvency II, sets out that firms must produce policies including for:
        - **Underwriting** and **reserving**.
        - **Asset-liability** management.
        - **Investment risk** management.
        - **Liquidity risk** management.
        - **Concentration risk** management.
        - **Operational risk** management.
        - **Reinsurance** and other insurance **risk mitigation techniques**.

      Furthermore, firms must develop an investment risk management policy that, where appropriate, in order to ensure effective risk management, includes internal quantitative investment limits for assets and exposures. To set the aforementioned limits, the PRA expects firms should take into account at least the nature and duration of the liabilities or the need for proper diversification of assets, among others.
    - Counterparty risk. Internal quantitative investment limits should be set in order to ensure a properly diversified and resilient portfolio of assets that avoids a material reliance on counterparties.
    - Risk concentration, risk accumulation and lack of diversification. The PRA expects firms that:
        - They ensure that **assets issued by the same issuer**, or by issuers belonging to the same group, shall **not expose the insurance firm to excessive risk concentration**.
        - They demonstrate how their **quantitative investment limits and forward-looking investment strategy** would **prevent solvency from being threatened** under a range of stress scenarios.
        - Their have an **investment risk management policy** that will articulate how the firm has identified and is managing any **potential correlation or contagion risks** between assets which would lead to excessive concentration of risk.
- **Outsourcing of investment activities**. The PRA expects that firms will undertake appropriate due diligence in relation to outsourced investment activities. A firm's risk function should have the ability to understand and manage the specific risks associated with outsourcing its investment function or parts of its investment function. Additionally firms should be confident that any external party has sufficient risk management expertise to comply with this SS.

2. Main points (cont.)

- **Exposures to non-traded assets**. The PRA expects that, prior to investing in a non-traded asset, when determining any internal investment limit, firms will also consider and assess matters including the following: the appropriateness and robustness of the valuation methodology under a suitable range of operating conditions or the materiality of any embedded optionality, among others. In addition, regarding the purpose of managing the risks arising from these investments, they also expect that the level of expertise of key persons (including investment managers) and the robustness of risk management systems and controls would increase commensurate with any increases in the scale, complexity or concentration of investments in non-traded assets.
- **Valuation uncertainty**. The PRA expects that firms will have effective systems and controls in place to limit and manage their exposure to valuation uncertainty. This should include a framework for quantifying or grading their exposure to this risk, to enable them to define appropriate internal investment limits in respect of their investment in assets that expose them to valuation uncertainty. The appropriateness of that framework will depend on all the circumstances in each case, taking into account the principle of proportionality. In addition, the PRA expects that the level of valuation uncertainty and associated risks should be consistent with the defined risk appetite and investment strategy of the firm, including in stress scenarios.
- **Intragroup loans and participations**. In respect of assets backing technical provisions (TP), the PPP requires that these must be invested "in a manner appropriate to the nature and duration of the firm's insurance and reinsurance liabilities and in the best interests of all policyholders, taking into account any disclosed policy objectives". In this regard, the PRA expects that:
    - According to the requirement for assets backing TP to be invested in policyholders' best interests, the PRA consider that it is a <u>high hurdle</u> for firms to <u>demonstrate</u> that <u>intragroup loans</u> and <u>participations</u> are in the <u>best interests of policyholders</u> and, as such, a high hurdle to demonstrate that they are <u>appropriate for covering TP</u>.
    - A firm's board should be satisfied that any <u>conflicts of interest have been resolved in the best interest of policyholders</u> before investing in an intragroup asset. Any <u>conflicts of interest</u> that arise following <u>investment in an intragroup transaction</u> should also be resolved in the <u>best interest of policyholders</u>, which may mean ceasing to invest in that asset.
    - <u>Intragroup assets</u> are subject to at least the <u>same level of "arm's length" scrutiny</u> and <u>risk management</u> as other assets, as well as proper governance and documentation with regard to: conflict of interest, concentration risk, credit risk or the increase of the fragility of the group in stress scenarios due to the complexity of the group structure and its dependencies, among others.
- **Outwards reinsurance**. The PPP applies to all assets, including reinsurance arrangements. As for any asset, the PRA will take a case-by-case approach to considering whether reinsurance arrangements meet the PPP's standards, and will take into account a particular firm's circumstances, including the impact of various risk mitigation factors such as the use of collateral.

25/05/2020

- **Statement on resolution measures and Covid-19 (PRA, BoE)**
- **Statement on prioritisation in light of Covid-19 (PRA)**
- **Statement on conversion of Pillar 2A capital requirements from RWA percentage to nominal amount (PRA)**

1. Context

The disruption of COVID-19 has caused the adoption of measures for local and supranational authorities to mitigate the economic impact from this pandemic. In particular, the Bank of England (BoE) and the Prudential Regulation Authority (PRA) have issued several measures to maintain financial stability, ensure the safety and soundness of firms and make sure policyholders are protected.

In this context, the PRA and the BoE have published a **Statement on resolution measures and COVID-19** aimed at alleviating operational burdens on PRA-regulated firms in response to the COVID-19 outbreak. In addition, the PRA has published the **Statement on prioritisation in light of COVID-19** which sets out further details of the PRA's plans to help firms maintain their safety and soundness and enable them to focus their resources on the supporting the UK economy to respond to the significant impact of Covid-19. Finally, the PRA has also issued the **Statement on conversion of Pillar 2A capital requirements from Risk Weighted Asset (RWA) percentage to nominal amount**, its objective is to alleviate unwarranted pressure on firms by setting all Pillar 2A requirements as a nominal amount, instead of a percentage of total Risk Weighted Assets (RWAs).

2. Main points

Statement on resolution measures and COVID-19

- **Resolvability Assessment Framework (RAF)**. In order to alleviate operational burdens on firms and ensure firms' senior management are able to engage fully in the RAF report submission and disclosure process, the dates or the major UK banks and building societies to submit their first reports on their preparations for resolution and publicly disclose a summary of these reports have been extended by a year, so they will be required to submit these reports by October 2021 and make public disclosures by June 2022. Furthermore, the BoE will make its first public statement on these firms' resolvability by June 2022.
- **Valuation in Resolution**. To provide flexibility to firms' core operational teams, the compliance deadline for the BoE's Statement of Policy on valuation capabilities to support resolvability has been extended by three months to 1 April 2021. The deadline for firms to implement the BoE's other Statements of Policy relevant to resolvability remains 1 January 2022.
- **Resolution plan reporting**. For reducing the immediate operational burden of resolution plan reporting, firms will not be required to submit certain resolution pack information under PRA Supervisory Statement SS19/13 'Resolution Planning' until the end of 2022, unless notified otherwise on an individual basis by the PRA.
- **Minimum Requirement for Own Funds and Eligible Liabilities (MREL)**. The BoE will continue to keep MRELs under review and monitor market developments carefully in Q3 of this year to inform its approach in Q4 2020 to setting January 2021 MRELs and indicative January 2022 MRELs. Furthermore, the BoE has clarified that it intends to exercise its discretion with respect to the transition time firms are given to meet higher MRELs. Firms not currently subject to a leverage-based capital requirement, but which subsequently become subject to one, will be given at least 36 months after that requirement takes effect to meet the higher MREL resulting from it.

Statement on prioritisation in light of COVID-19

- **Climate change**. Recognizing current pressures on firms, and in light of the responses to the December 2019 Discussion Paper on the Climate Biennial Exploratory Scenario, the Prudential Regulation Committee (PRC) and the Financial Policy Committee (FPC) have agreed to postpone the launch of the exercise until at least mid-2021. Even though COVID-19 represents a present risk, minimising the future risks from climate change requires action now, so the BoE will continue its work to better understand and mitigate these risks, including:
    - Continued support for firms' enhancements of their climate risk capabilities. In order to help with this, this summer the PRA will issue follow-on guidance on the PRA's 2019 Supervisory Statement on enhancing firms' approaches to managing the financial risks from climate change.
    - Continuation of the BoE's international engagement on climate issues. This includes working with other central banks within the Network for Greening the Financial System, through which guides on key issues like supervision and scenario analysis will shortly be published.
    - Continued focus on embedding climate disclosure across the financial system, including through the BoE's own disclosures.

2. Main points (cont.)

- **LIBOR transition**. Due to COVID-19, the PRA and the Financial Conduct Authority (FCA) suspended transition data reporting at the end of Q1, and cancelled some Q1 firm meetings. In light of the developments since, the PRA and FCA have decided to resume full supervisory engagement on LIBOR from 1 June 2020, including data reporting at the end of Q2.
- **Insurance Stress Test 2019**. The PRA has decided to pause further work on the Insurance Stress Test, given other pressures on firms and the need to focus on COVID-19 specific stresses. Therefore the PRA will not publish the results of last year's test and will postpone the next Insurance Stress Test to 2022, with a view to seeking feedback from firms on the proposed design during Q4 2021.
- **Stressed Value at Risk (SVAR)**. In the PRA's Supervisory Statement on Market Risk some expectations were set on how the 12-month period used for SVAR should be calculated, and how frequently it should be reassessed. With respect to the last point, the PRA do not expect that firms update their SVAR 12-month period during the current period of financial market stress, other than if a firm's current period no longer represents a significant period of stress for the firm's portfolio. In line with EBA guidance, is allowed for firms to delay until December 2020 the review of the choice of historical data.

<u>Statement on conversion of Pillar 2A capital requirements from RWA percentage to nominal amount</u>

- **Conversion of Pillar 2A requirements**. The Bank's approach is that they do not believe that RWAs are a good approximation for the evolution of the risks captured in Pillar 2A in a stress. The PRA will continue to regularly assess the appropriate level of Pillar 2A; given these regular assessments we believe the most proportionate approach is to set Pillar 2A as a nominal amount between assessments. As well as avoiding an absolute increase in Pillar 2A capital requirements in the current stress, this would reduce Pillar 2A, as well as the threshold at which firms are subject to maximum distributable amount (MDA) restrictions.
- **Implementation**. The PRA will set Pillar 2A as a nominal amount in the 2020 and 2021 Supervisory Review and Evaluation Processes (SREPs). The PRA invites all firms who do not have a SREP assessment due in 2020 to apply for a conversion of their current Pillar 2A requirement into a nominal amount using RWAs as of end-December 2019. This change is voluntary, subject to supervisory agreement, and would apply until the firm's next regularly-scheduled SREP.

BANK OF ENGLAND

BANK OF ENGLAND
PRUDENTIAL REGULATION AUTHORITY

25/05/2020
Statement on credit risk mitigation eligibility and leverage ratio treatment of loans under the Bounce Back Loan Scheme (BBLS)

1. Context

The COVID-19 Bounce Back Loan scheme (BBLS) has recently been launched to mitigate the economic impact of the COVID-19 outbreak, specially to enable businesses to access finance more quickly during the pandemic.

In this context, the PRA has published a **Statement on credit risk mitigation eligibility and leverage ratio treatment of loans under the Bounce Back Loan Scheme (BBLS)** with the aim of setting out the PRA's observations on the risk-weighted treatment of exposures under the UK Government's Bounce Back Loan Scheme (BBLS) and particularly eligibility for recognition as unfunded credit risk mitigation (CRM) under the Capital Requirements Regulation (CRR) as well as a related change to the UK leverage ratio framework.

2. Main points

- **Credit Risk Mitigation eligibility of guarantees in the scheme**. Firms are encouraged to review relevant articles of the CRR, and any relevant PRA rules and guidance to confirm that all the applicable requirements and expectations have been satisfied. The PRA considers that the terms of the guarantee provided by the BBLS do not contain features that would render these guarantees ineligible for recognition as unfunded credit risk protection, and the effects of these guarantees would appear to justify such treatment. It implies that if the guarantee meets the conditions in CRR, it may allow a firm to adjust risk weights and expected loss amounts.
- **Leverage ratio treatment of loans under the scheme**. The PRA is offering a modification by consent for banks subject to the UK Leverage Ratio Part of the PRA Rulebook to exclude the government guarantees in full loans from banks to small and medium-sized businesses under BBLS from the leverage ratio total exposure measure, if they choose to do so. It also allows firms to exclude loans made pursuant to schemes of a similar character which are 100% guaranteed by a government or central bank of an EEA state or the ECB provided that such loans do not exceed €60,000 per loan.

27/04/2020

- **Temporary Guidance for firms: Personal loans and coronavirus**
- **Temporary Guidance for firms: Overdrafts and coronavirus**
- **Temporary Guidance for firms: Credit cards (including retail revolving credit) and coronavirus**

1. Context

Since the beginning of March 2020, various agencies at both the supranational and local levels have issued measures to mitigate the possible impact that the COVID-19 could have on the economy. In the UK, the Bank of England (BoE) issued a set of measures to respond to the economic shock from COVID-19 with the aim to help UK businesses and household bridge across the economic disruption that is likely to be associated with this virus. Furthermore, the BoE and the Prudential Regulation Authority (PRA) have published a set of supervisory and prudential policy measures to address the challenges of COVID-19.

In this context, the FCA has published three **Temporary Guidances for firms** which cover **personal loans overdraft and credit cards (including retail revolving credit) and coronavirus**, with the aim of protecting consumers by providing them with temporary support in the light of the current exceptional circumstances arising out of coronavirus.

2. Main points

Temporary Guidance for firms: Personal loans and coronavirus

- **Scope**.
  - Regulated firms that issue personal loans. It only applies to credit union loans where they are regulated credit agreements.
  - Firms that have acquired personal loans.
  - Customers that are already experiencing or reasonably expect to experience temporary payment difficulties.
- **Payment deferrals**. It is an arrangement under which a firm permits the customer to make no payments under their regulated credit agreement for a specified period without being considered to be in arrears. Where a customer wishes to receive a payment deferral, a firm should grant the customer a payment deferral for 3 months. If this payment deferral is not considered appropriate, firms should offer other ways (e.g. reduced payments or rescheduled term) to provide temporary relief to the customer. Where a customer who received a payment deferral or a different solution for a period is entitled at the end of the period to forbearance, then as part of this, FCA expects any interest accrued during the relevant period to be waived.

Temporary Guidance for firms: Overdrafts and coronavirus

- **Scope**.
  - Firms with permission to accept deposits and which provides a current account with an overdraft facility.
  - Primary personal current accounts.
  - European Economic Area (EEA) firms who currently passport into the UK.
  - It does not apply to private banks and credit unions.
  - Customers that are already experiencing or reasonably expect to experience temporary payment difficulties as a result of coronavirus.
- **Interest free overdrafts**. Firms should, at the customer's request, assist the customer in the following way:
  - No interest should be payable in respect of up to £500 of the balance of the arranged overdraft.
  - Where an arranged overdraft has a limit of over £500, firms should not charge interest on the first £500 irrespective of whether the balance exceeds that amount.

  Where a firm instead chooses to extend an interest free amount to all customers with an arranged overdraft on their primary current account without the need for a request, this may be for a fixed period in the calendar that is the same for all customers. The interest free amount extended must be at least that required to be provided under this guidance with at least 3 months duration.

  The provision of new or increased arranged overdraft facilities is subject to the standard creditworthiness assessment by lenders.
- **Overdraft interest rate pricing**. Firms must review their prices to ensure they are set at a level that is consistent with the obligation to treat customers fairly in the light of the exceptional circumstances arising out of coronavirus. In this sense, firms have flexibility in the way they achieve this, it could include or be a combination of the following:
  - Not introducing any increase in price.
  - Reducing its published interest rates.
  - By manual adjustments.

  At the end of the 3 month period, providers should consider whether customers who have benefitted from these guidelines are in financial difficulty. If they are, then the lender should provide forbearance under normal policies and processes.

2. Main points (cont.)

Temporary Guidance for firms: Credit cards (including retail revolving credit) and coronavirus

- **Scope**.
  - Regulated firms who issue credit cards and retail revolving credit products.
  - Firms that have acquired credit cards and retail revolving credit products' debts.
  - It does not apply to business credit cards.
  - Customers that are already experiencing or reasonably expect to experience temporary payment difficulties as a result of coronavirus.
- **Payment deferrals**. It is an arrangement under which a firm permits the customer to make no payments under their credit card or revolving credit agreement for a specified period without being considered to be in arrears. Where a customer wishes to receive a payment deferral, a firm should grant the customer a payment deferral for 3 months unless the firm determines that it is obviously not in the customer's interests to do so (e.g. not able to repay any accrued interests). If a 3 month payment deferral is not considered appropriate, firms should without unreasonable delay, offer other ways (e.g. reduced payments) to provide temporary relief to the customer. Where a customer who received a payment deferral or a different solution for a period is entitled at the end of the period to forbearance, then as part of this, FCA expects any interest accrued during the relevant period to be waived. Persistent debt provisions and minimum repayment amount have been suspended for customers who have been granted a payment deferral.
- **Expectations in relation to credit card rates**. Firms should review prices set for credit cards to consider whether they are consistent with the obligation to treat customers fairly in the light of the exceptional circumstances arising out of coronavirus in order to ensure that they do not pose unjustifiable burdens on these customers who may be experiencing temporary payment difficulties.

3. Next steps

- The FCA Temporary guidance for firms came into force on the **14th April 2020**. Firms were free, however, to implement these measures sooner, at any time from 9 April. The FCA will review this guidance in the next 3 months in the light of developments regarding coronavirus and may revise the guidance if appropriate.
- Customers should be able to request the measures contained in these guidances at any point after they come into force for a period of **3 months**. This means that these measures (e.g. payment deferrals) could go beyond the point where the 3 month window for requesting them expires.

11/05/2020

- **Temporary Guidance for firms: High-cost short-term credit and coronavirus**
- **Temporary Guidance for firms: Rent-to-own, buy-now pay-later and pawnbroking agreements and coronavirus**
- **Temporary Guidance for firms: Motor finance agreements and coronavirus**

1. Context

Since the beginning of March, various agencies at both the local and supranational levels have issued measures to mitigate the possible impact that the COVID-19 could have on the economy. In the UK, the Bank of England (BoE) issued a set of measures to respond to the economic shock from COVID-19 with the aim to help UK businesses and household bridge across the economic disruption that is likely to be associated with this virus. Furthermore, the BoE and the Prudential Regulation Authority (PRA) have published a set of supervisory and prudential policy measures to address the challenges of COVID-19.

In this context, and after the publication of three previous temporary guidances, the FCA has published three new **Temporary Guidances for firms** which include COVID-19 measures for **high-cost short-term credit; rent-to-own, buy-now pay-later and pawnbroking agreements, and motor finance agreements**, with the aim of protecting consumers by providing them with temporary support in the light of the current exceptional circumstances arising out of coronavirus.

2. Main points

Temporary Guidance for firms: High-cost short-term credit and coronavirus

- **Scope**.
  - Regulated firms that enter into high-cost short-term credit (HCSTC) loans (including payday loans). It applies to both current loans and loans entered into after the guidance comes into force.
  - Firms that have acquired HCSTC loans.
  - Customers that are already experiencing or reasonably expect to experience temporary payment difficulties.
- **Payment deferrals**. It is an arrangement under which a firm permits the customer to make no payments under their regulated credit agreement for a specified period without being considered to be in arrears. Where a customer wishes to receive a payment deferral, a firm should grant the customer a payment deferral for at least one month. In order to treat customers fairly, no additional interest arising as a result of the deferral should be charged to the customer and the payment deferral should have no impact on the amount of the balance that was outstanding at the time when the payment deferral was granted. Finally, the firm should allow the customer to repay the deferred payment over such period and in such amount as the customer can reasonably afford, including over a period that extends beyond the original period of the loan.

Temporary Guidance for firms: Rent-to-own, buy-now pay-later and pawnbroking agreements and coronavirus

- **Scope**.
  - Regulated firms that enter into rent-to-own (RTO), buy-now pay-later (BNPL) or pawnbroking agreements. It does not apply to peer to peer agreements.
  - Firms that have acquired any of these agreements.
  - Customers that are already experiencing or reasonably expect to experience temporary payment difficulties.
- **Payment deferrals**. It is an arrangement under which a firm permits the customer to make no payments under their regulated credit agreement for a specified period without being considered to be in arrears. Where a customer wishes to receive a payment deferral, a firm should grant the customer a payment deferral for 3 months. If this payment deferral is not considered appropriate, firms should offer other ways (e.g. reduced payments or rescheduled term) to provide temporary relief to the customer. Where a customer who received a payment deferral or a different solution for a period is entitled at the end of the period to forbearance, then as part of this, FCA expects any interest accrued during the relevant period to be waived.
- **Pawnbroking agreements**. Where a customer is granted a payment deferral on a pawnbroking agreement, the firm should implement this by extending the redemption period for 3 months or, if the redemption period has already ended, agree not to give notice of intention to sell an item of pawn for that period.
- **BNPL agreements**. Where a customer is granted a payment deferral on a BNPL agreement and the customer is within the promotional period, the firm should implement this by extending the promotional period for 3 months. However, where the balance is not subject to a promotional period and is under a fixed-sum agreement, a payment deferral of 3 months should be provided under this guidance.
- **RTO agreements**. Where an RTO customer has a payment deferral or the agreement is extended it is expected that firms consider the impact on warranties or insurance sold or arranged by the firm. It is expected that firms take steps at least as favourable to those it has taken, or would take, where customers are in a similar position due to our standard forbearance rules.

2. Main points (cont.)

Temporary Guidance for firms: Motor finance agreements and coronavirus

- **Scope**.
    - Regulated firms that issue regulated motor finance agreements. This includes:
        - **Hire purchase** agreements (such as personal contract purchase (PCP) agreements).
        - **Conditional sale** agreements or other **debtor-creditor-supplier** agreements.
        - **Restricted-use debtor-creditor** agreements used to purchase a vehicle.
        - **Personal contract hire** (PCH) agreements.
    - Firms that have acquired any of these agreements.
    - Customers that are already experiencing or reasonably expect to experience temporary payment difficulties.
- **Payment deferrals**. It is an arrangement under which a firm permits the customer to make no payments under their regulated credit agreement for a specified period without being considered to be in arrears. Where a customer wishes to receive a payment deferral, a firm should grant the customer a payment deferral for 3 months. If this payment deferral is not considered appropriate, firms should offer other ways (e.g. reduced payments or rescheduled term) to provide temporary relief to the customer. Where a customer who received a payment deferral or a different solution for a period is entitled at the end of the period to forbearance, then as part of this, FCA expects any interest accrued during the relevant period to be waived.
- **PCP Guaranteed Minimum Future Value (GMFV), PCH Residual Value (RV) and other features of these agreements**. When granting a payment deferral or other option for assisting customers under PCP or PCH agreements affected by COVID-19, firms should not by any means seek to modify, or seek to unilaterally alter, any aspect of the original agreement in a way that takes advantage of the customer's necessity, lack of experience or weaker bargaining position or otherwise leads to unfair outcomes.
- **PCP agreements reaching term end during the period this guidance is in force**. Where a customer wishes to retain the vehicle, but does not have funds to cover the balloon payment due to coronavirus related financial difficulties, firms should work with the customer to find an appropriate solution. However, when a customer wishes to return the vehicle, but this is impractical due to the coronavirus situation, firms should inform the customer that they are unable to use the vehicle once the agreement has been terminated or come to an end, if that is the case.
- **Repossessions**. Where the customer has the right to use the vehicle, firms should not take steps to terminate the agreement or seek to repossess the vehicle where the customer is experiencing temporary payment difficulties as a result of circumstances relating to coronavirus and needs use of the vehicle.

3. Next steps

- The FCA Temporary guidance for firms came into force on the **27th April 2020**. FCA will review this guidance in the next 3 months in the light of developments regarding coronavirus and may revise the guidance if appropriate.
- Customers should be able to request the measures contained in these guidances at any point after they come into force for a period of **3 months**. This means that these measures (e.g. payment deferrals) could go beyond the point where the 3 month window for requesting them expires.

01/06/2020
Coronavirus and safeguarding customers' funds: proposed guidance for payment firms

1. Context

In April 2020, the FCA published the 2020/21 Business Plan where explained that payment services providers (PSPs) including payments institutions (PIs) and e-money institutions (EMIs) continue to develop quickly and more firms and new products are entering the market while more consumers and businesses are using PIs and EMIs. To this respect, the FCA is monitoring it closely for any harms to consumers or market integrity it may cause.

In this context, the FCA has published a **short consultation on proposed temporary guidance for payment firms** in order to strengthen payment firms' prudential risk management and arrangements for safeguarding customers' funds in light of the exceptional circumstances of the COVID-19. This proposed guidance should help firms prevent harm to their customers if firms fail, by making the wind-down process as orderly as possible and facilitating the return of customer funds in a timely manner.

2. Main points

- **Safeguarding requirements**. The requirement to safeguard applies to 'relevant funds' in both the Electronic Money Regulations 2011 (EMRs) and the Payment Services Regulations (PSRs). Under the EMRs, relevant funds are funds that have been received in exchange for e-money that has been issued. Under the PSRs, relevant funds are: (i) sums received from, or for the benefit of, a payment service user for the execution of a payment transaction, and (ii) sums received from a payment service provider for the execution of a payment transaction on behalf of a payment service user. In particular, safeguarding involves, among others, keeping records and accounts and making reconciliations, safeguarding accounts and acknowledgement letters, and disclosing information on treatment of funds on insolvency to customers.
- **Prudential risk management**. This proposed guidance establishes that prudential risk management includes areas such as:
  - Governance and control. Authorized Payment Institutions (APIs) and EMIs should ensure they have robust governance arrangements, effective procedures, and adequate internal control mechanisms, in accordance with their conditions of authorization.
  - Capital adequacy. Firms should accurately calculate their capital requirements and resources on an ongoing basis, and report these correctly in regulatory returns, as well as on request. To reduce exposures to intra-group risk, the best practice for firms is to deduct any assets representing intra-group receivables from their own funds. This is designed to ensure that there is an adequate level of financial resources within each individual regulated entity at all times to absorb losses. It also reflects the risk that a period of financial stress may affect the ability of other members of the firm's group to repay any amounts owed.
  - Liquidity and capital stress testing. Firms should carry out liquidity and capital stress testing to analyse their exposure to severe business disruptions and assess their potential impact, using internal and/or external data and scenario analysis.
  - Risk management arrangements. Firms are expected to consider their own liquid resources and available funding options to meet their liabilities as they fall due, and whether they need access to committed credit lines to manage their exposures.
- **Wind-down plans** are needed by firms to manage their liquidity and resolution risks. The wind-down plan should consider the winding-down of the firm's business under different scenarios. In particular, the wind-down plan should include/address the following aspects:
  - Funding to cover the solvent wind-down of the firm, including the return of all customer funds.
  - Realistic triggers to start a solvent wind-down and to seek advice on entering an insolvency process.
  - The need for any counterparties (i.e. merchants) to find alternative providers.
  - Information which would help an administrator or liquidator to quickly identify customer funds and return them as a priority.

3. Next steps

- Comments may be submitted until **5th of June 2020**.

01/06/2020
Guidance for insurance and premium finance firms

1. Context

During the last months, the Bank of England (BoE) issued a set of measures to respond to the economic shock from COVID-19 with the aim to help UK businesses and household bridge across the economic disruption that is associated with the health crisis. In this sense, the BoE and the Prudential Regulation Authority (PRA) have published a set of supervisory and prudential policy measures to address the challenges of COVID-19. The FCA, for its part, has issued several Temporary Guidances for firms which cover personal loans; overdraft; credit cards; high-cost short-term credit; rent-to-own, buy-now pay-later and pawnbroking agreements, and motor finance agreements.

In this context, the FCA has published a **Guidance for insurance and premium finance firms** with the aim of prompting firms to help qualifying customers to reduce the impact of temporary financial distress and ensure that customers continue to have insurance that meets their demands and needs. This guidance is intended for customers that are already experiencing or reasonably expect to experience temporary payment difficulties as a result of circumstances relating to coronavirus.

2. Main points

- **Scope**. This guidance applies to regulated firms operating in the insurance and premium finance markets. This includes insurers, insurance intermediaries, certain premium finance lenders and brokers, debt collectors and other firms that may be involved in insurance arrangements and/or in relation to the provision of premium finance. The guidance applies to all non-investment insurance contracts (i.e. general insurance and protection contracts) but not to re-insurance products.
- **Actions firms can take**. A firm should consider what options it can give to the customers in temporary financial difficulties that will serve as relief in light of their changed circumstances. The following actions may be the steps the firm considers will Help the customer understand their options:
    - Re-assessing the risk profile of the customer.
    - Considering whether there are other products the firm can offer which would better meet the customer's needs and revising the cover accordingly.
    - Working with customers to avoid the need for cancellation of necessary cover such as by considering payment deferrals.
    - Waiving cancellation fees and any fees associated with adjusting a qualifying customer's policy.

  Firms should consider if it is appropriate to take these steps for all products that the customer holds with the firm. These actions could result in a reduction in the monthly premium for customers paying by instalments and for customers who have paid up front, this could result in a partial refund of the premium.
- **Payment deferrals**. If amendments to the insurance cover do not help alleviate the temporary payment difficulties for customers paying their premium in instalments, firms are expected to grant customers a payment deferral unless it is not in the customer's interests to do so. In determining whether a payment deferral is not in customers' interests, firms should consider both customers' need for immediate temporary support and the longer-term effects of a payment deferral on the customers' situation. The payment deferral period should be for a period of between 1 and 3 months, though firms can go beyond 3 months should they wish to do so, and it is in the customer's interests. Where firms do not consider a payment deferral is appropriate, they should, without unreasonable delay, offer other ways to provide temporary relief to the customer.
- **Rates of interest**. Firms should consider reviewing any interest rates associated with instalments to ascertain whether they are consistent with the obligation to treat customers fairly.

3. Next steps

- After this guidance came into effect on 18 May 2020, **it will be reviewed within 3 months** of it coming into effect in light of developments around coronavirus to assess whether it is still needed.
- Customers be able to request a payment deferral at any point during the period up to **18 August 2020** while the window for requesting a payment deferral is open.

09/06/2020

- **Mortgages and coronavirus: updated guidance for firms**
- **Product value and coronavirus: guidance for insurance firms**

1. Context

During the last months, the Bank of England (BoE) issued a set of measures to respond to the economic shock from COVID-19 with the aim to help UK businesses and household bridge across the economic disruption that is associated with the health crisis. In this sense, the BoE and the Prudential Regulation Authority (PRA) have published a set of supervisory and prudential policy measures to address the challenges of COVID-19. The FCA, for its part, has issued several temporary guidances for firms which cover personal loans; overdraft; credit cards; high-cost short-term credit; rent-to-own, buy-now pay-later and pawnbroking agreements, and motor finance agreements. Furthermore, the FCA has also issued a temporary guidance for insurance and premium finance firms.

In this context, the FCA has published a **Guidance for firms on mortgages and coronavirus** which addresses the problems arising for customers that have to resume payments at the end of a payment deferral period. Furthermore, the FCA has also published a **Guidance for insurance firms on product value and coronavirus** which sets out FCA expectations for insurers and insurance intermediaries to consider the value of their products in light of the exceptional circumstances arising from COVID-19. Both guidance are temporary due to the situation caused by the coronavirus pandemic.

2. Main points

<u>Mortgages and coronavirus: updated guidance for firms</u>

- **Scope**. This guidance applies to the regulated mortgage contract or the regulated home purchase plan.
- **Customers who have not yet had a payment deferral**. Where a customer is experiencing or reasonably expects to experience payment difficulties as a result of circumstances relating to coronavirus, and wishes to receive a full payment deferral or partial payment deferral to reduce payments to an amount the customer believes they are currently able to afford, a firm should agree to this for 3 monthly payments. The firm can agree with the customer a different option that the firm reasonably considers to be in the best interests of the customer, this could be:
  - Offering a <u>payment deferral of fewer than 3 months</u>.
  - Offering a <u>sustainable longer-term solution</u> (e.g. extension of the term or an alternative product).
  - Offering more <u>favourable forms of assistance</u> (e.g. reducing or waiving interest).

  Where the customer and firm do not agree about the monthly payment a customer can afford, the firm should offer a payment deferral at the level sought by the customer and give customers adequate information to understand the implications of any support offered, to enable them to make an informed decision (e.g. personalised information on the impact on their monthly payments or the term of their mortgage).
- **Customers who have had a payment deferral**. Firms should take reasonable steps to contact their customers in good time before the end of a payment deferral period about resuming payments and to engage with them about their options when it expires. This contact should inform customers of what will happen if they do not respond, including the impact on their next monthly payment. This should include:
  - <u>Information about default arrangements</u> to capitalise the sums covered by a payment deferral.
  - Informing customers that <u>other options are available to repay any sums covered by a payment deferral and how to access these or further support</u>.

  Customers coming to the end of a payment deferral period should receive a fair treatment according to their financial circumstances. Firms should distinguish between those customers who:
  - <u>Can resume full payments immediately</u>. A firm should contact customers in good time before the end of the payment deferral period with information about the resumption of payments and on how to access further support if needed. If the customer has not responded, the firm may proceed on the basis the customer is able to resume full payments. Before capitalising any sums covered by a payment deferral the firm should give the customer personalised information on the impact on their monthly payments or the term of the mortgage. Where customers have been treated as able to resume full repayments but subsequently miss the next payment due under the mortgage, FCA expects firms to make further reasonable attempts to contact them. However, a firm may treat a customer who fails to respond to further communications after missing their first payment as being in payment shortfall in respect of the missed payment.
  - <u>Are currently unable to resume full payments due to circumstances arising out of coronavirus</u>. Where, after an initial payment deferral, and at any time before their first monthly payment is due, a customer indicates they cannot currently resume full payments, a firm should offer a full payment deferral, or a partial payment deferral to reduce their monthly payments to an amount the customer believes they are currently able to afford for 3 monthly payments. This is unless the firm agrees with the customer a different option according to the provisions of the payment deferrals as outlined in the prior bullet related to the customers who have not yet had a payment deferral. If a customer who has agreed a partial payment deferral or a payment deferral of less than 3 months contacts the firm seeking further assistance before the end of the payment deferral period, the firm should offer them additional support such as extending the payment deferral period to 3 months, reducing the agreed payment further or including to a full payment deferral.

2. Main points (cont.)

    - Payment shortfall. Unless otherwise specified, any sums covered by a payment deferral should not be considered to be a payment shortfall. However, where a firm varies the terms of a regulated mortgage contract or home purchase plan solely for the purposes of forbearance or to avoid a payment shortfall, Mortgage Conduct of Business (MCOB) continue to have effect.
- **Training, monitoring, record keeping and Credit Reference Agency reporting**. Firms should:
    - Ensure that staff are adequately trained to enable them to implement the firm's process for following this guidance.
    - Keep records of how any process was designed sufficient to demonstrate that the options presented were consistent with customers' best interests.
    - Record and monitor initial and further payment deferrals offered, any alternative measures provided, as well as any issues which might impede customers' ability to access the assistance required under this guidance.
    - According to the relevant Coronavirus Data Reporting Guidance published by the Credit Reference Agencies, firms should not report a worsening status on the customer's credit file during any initial or further payment deferral period.
    - Where customers have been unable to reach timely agreement with firms for a payment deferral because of firms' operational difficulties, FCA would expect firms to work with customers and Credit Reference Agencies to ensure that any necessary rectifications are made to credit files to ensure no worsening status is recorded regarding the payment deferral period.
    - Ensure no default or arrears charges are levied in relation to payments missed in these circumstances.
- **Repossessions**. Firms should not commence or continue repossession proceedings against customers before 31 October 2020. This applies irrespective of the stage that repossession proceedings have reached and to any step taken in pursuit of repossession. Where a possession order has already been obtained, firms should refrain from enforcing it. Additionally, firms should also ensure that their customers are kept fully informed, and discuss with them the potential consequences of their suspending any moves towards repossession.

Product value and coronavirus: guidance for insurance firms

- **Scope**. This guidance applies to all firms carrying on regulated activities relating to all non-investment insurance products and, in particular, firms who have manufactured these products. This will be relevant to all insurance products, whether the customer is retail or commercial. However, this guidance does not set out expectations for the review of re-insurance products.
- **Product reviews**. Firms should consider whether and how coronavirus may have materially affected the value of their insurance products. The effects of coronavirus may mean that:
    - Firms are no longer able to provide expected contractual benefits.
    - There has been a reduction in the chance of underlying insured events happening.

  Where firms identify something that could materially affect the value of the product they should consider the appropriate action to take. This could include delivering benefits in a different way, the provision of alternative, comparable benefits, reducing premiums for the duration of the change in value, or partial refunds of premiums already paid.
  Therefore, FCA expects that firms to be able to demonstrate to them how they have met their obligations at a product level and treated their customers fairly, which implies to communicate any issue that may adversely affect the customer and any actions firm is taking to address this.
- **Term**. Firms need to have completed this review of their product lines and decided on any resulting actions by no later than 6 months from the date of publication of this guidance. In addition, firms can also assess the longer term impacts of coronavirus on their insurance products on an ongoing basis beyond the 6-month period.

3. Next steps

- The guidance for firms on mortgages and insurance firms on product value are **already in force**:
    - The guidance for firms on mortgages will be in force until 31 October 2020.
    - Regarding the guidance for insurance firms on product value, the firms should complete their review of product lines and decided on resulting actions by no later than 3 December 2020.

19/06/2020
Finalised Guidance 20/1 Our framework: assessing adequate financial resources

1. Context

In March 2018, the FCA published their approach to supervision the firms with the aim of ensuring fair and honest markets, minimising harm to consumers or to the integrity of the UK financial system. To ensure that firms comply with the minimum financial resources requirements set out in the prudential standards in the FCA handbook and European prudential legislation, the FCA has established a supervision work which includes the assessment of adequate financial resources as well as setting up the threshold conditions to firms.

In this context, the FCA has published the **Finalised Guidance 20/1 Our framework: assessing adequate financial resources** with the aim of providing their approach to the assessment of adequate financial resources, for all FCA solo-regulated firms subject to threshold conditions and/or the Principles for Businesses (PRIN). In particular, this Guidance set outs the role of assessing adequate financial resources, expected practices to be adopted by firms when assessing adequate financial resources, and the expectations as to the practices firms should adopt in their assessment of adequate financial resources. It should be highlighted that this guidance does not place specific additional requirements on firms because of COVID-19, but the crisis underlines the need for all firms to have adequate resources in place.

2. Main points

- **Role of adequate financial resources in minimising harm**. The adequacy of financial resources is designed to: enable firms to remain financially viable and to provide services through the economic cycle, and to enable an orderly wind-down without causing undue economic harm to consumers or to the integrity of the UK financial system. Furthermore, the assessment of appropriate resources under threshold conditions should consider the nature and scale of a firm's business model, the risks to the continuity of the services provided and the impact of other members of the firm's group on the adequacy of its resources. To assess if a firm has adequate financial resources the FCA considers if a firm has the ability to meet its debts when they fall due.
- **Expected practices regarding adequate financial resources assessment**. Firm's assessment should be proportionate to the nature, scale and complexity of its activities.
  - All firms should assess the risks inherent in their business model, the potential harm that can be caused and explain how to close the business in an orderly way. The assessment should, among others, consider a forward-looking approach to risks and how these evolve throughout the economic cycle and ensure they are financially sound while avoiding excessive costs, which could hinder firms from carrying out their business in a viable way.
  - Firms should understand and articulate how changes in operational and economic circumstances might affect the risks to which they are exposed and their ability to generate acceptable returns.
  - Firms should understand the risks in their activities so that they can detect, identify, and rectify problems themselves by ensuring that their systems and controls, governance and culture enable them to take effective steps to prevent harm from occurring.
  - Firms should consider the scenarios leading to financial stress, explore recovery options and, as a last resort, wind down its business.
- **Expectations regarding the reduction of potential harm**.
  - Financial resources. Firms are required to hold an appropriate level of capital and/or liquid resources to cover potential harm. Capital includes elements of a firm's equity and appropriate loss-absorbing debt liabilities which rank behind general creditors, such as share capital and retained earnings, and subordinated debt. Firms should have adequate capital to:
    - Ensure they are **able to incur losses and remain solvent** or fail in an orderly way.
    - Drive the **right behavior**.
  - Systems and controls, governance and culture. An adequate risk management and controls framework needs to be supported by effective governance, leadership and a purpose. These elements should drive a culture that allows firms to identify, assess, manage, monitor and mitigate the risk of harm. Moreover, they should help firms to anticipate problems and take effective steps to prevent them from occurring or rectify problems when they occur.

2. Main points (cont.)

- Identify and assess the impact of harm. Identifying the potential harm, to consumers and markets, should help a firm to understand what can go wrong, so that it can implement controls to minimise the risk of this happening. Firms should consider 'what if' scenarios and estimate the potential impact. This is to determine the amount and type of financial resources needed to put things right when they go wrong. Harm can manifest itself as financial services markets working poorly and not providing enough benefit to users, losses suffered by consumers, or exclusion from financial markets and services.
- Risks that can lead to harm or impair the ability to compensate for harm done. The potential depletion of financial resources, or inability to monetise assets when needed, may impair a firm's ability to put things right when they go wrong. Firms should identify, understand, and assess all the material risks which can affect the level of financial resources they have available, not just those which cause direct harm to customers and markets. This is important to minimise the risk of a firm not being able to put things right when they go wrong.
- Viability and sustainability of the business model and strategy. Understanding a firm's business model and strategy helps identify emerging risk of harm, and if there is a misalignment between firms' profit incentive and the interests of consumers and financial markets. The risks of harm may be heightened if firms are under significant pressure for financial performance or on the verge of failure. Understanding a firm's financial vulnerabilities and proximity to failure is important to minimise its impact.
- Wind-down planning. Wind-down planning aims to reduce the impact of a firm's closure, related to potential harm from the inability to pay redress, inability to return or transfer client assets and money, or to interrupt continuity of service. This typically covers:
  - Scenarios leading a firm to **wind-down** its business.
  - Potential impact on **consumers and financial markets**.
  - **Operational tasks** required and time necessary to execute each task.
  - **Capital to absorb winding-down costs** and additional losses.
  - **Liquid resources** necessary to support cash outflows.

BANK OF ENGLAND
PRUDENTIAL REGULATION AUTHORITY

20/04/2020

- **Statement of Policy: Delaying annual company accounts during the coronavirus crisis (FCA)**
- **Guidance for companies on Corporate Governance and Reporting (COVID-19 pandemic) (FRC)**
- **Guidance on estimating expected credit loss (ECL) and the regulatory definition of default (PRA)**
- **Guidance for auditors and matters to consider where engagement are affected by COVID-19 (FRC)**
- **PRA decision on Systemic Risk Buffer rates (PRA)**

1. Context

Since the beginning of March 2020, various agencies at both the local and supranational levels have begun to issue measures to mitigate the possible impact that the COVID-19 could have on the economy. In the UK, the Bank of England (BoE) issued a set of measures to respond to the economic shock from COVID-19 with the aim to help UK businesses and household bridge across the economic disruption that is likely to be associated with this virus. Furthermore, the BoE and the PRA have published a set of supervisory and prudential Policy measures to address the challenges of COVID-19.

In this context, the FCA, the FRC and the PRA have published a **Joint statement to address COVID-19** with the objective of ensuring that information continues to flow to investors, helping companies preparing and auditors auditing financial statements in the current uncertain climate, and helping market participants and lenders to respond appropriately to audit report modifications and loan covenant breaches. Furthermore, the PRA published on April 9th a **Decision on Systemic Risk Buffer rates** in order to give lenders greater certainty over their capital requirements moving forward.

2. Main points

- **FCA – Changes in reporting timetable for listed companies**. The FCA has published a statement permitting a delay in the publication of audited annual financial reports from four to six months from the end of the financial year. This policy is intended to be temporary while the UK faces the extreme disruption of the coronavirus pandemic and its aftermath.
- **FRC – Guidance for companies on corporate governance and reporting**. The FRC encourages Boards on corporate governance to take the following measures, in order to maintain effective decision making in the interests of the company, their workforce and other business partners:
    - Develop and implement mitigating actions and processes to ensure that they continue to operate an effective control environment.
    - Consider how they will secure reliable and relevant information, on a continuing basis, in order to manage their future operations and those of their workforce and suppliers.
    - Pay attention to capital maintenance, ensuring that sufficient reserves are available when the dividend is made.

  Furthermore, the FRC has prepared a guidance for companies intended to help boards focus on areas of reporting of most interest to investors; and to encourage them to provide clarity on the use of key forward-looking judgements. The guidance covers:
    - The need for narrative reporting to provide forward-looking information that is specific to the entity and which provides insights into the board's assessment of business viability and the methods and assumptions underlying that assessment.
    - Going concern and any associated material uncertainties, the basis of any significant judgements and the matters to consider when confirming the preparation of the financial statements on a going concern basis.
    - The increased importance of providing information on significant judgements applied in the preparation of the financial statements, sources of estimation uncertainty and other assumptions made.
    - Judgement required in determining the appropriate reporting response to events after the reporting date and the extent to which qualitative or quantitative disclosures may be appropriate.
- **PRA – Guidance on estimating expected credit loss (ECL) and the regulatory definition of default**. The PRA has made some observations that need to be taken into account in the governance process around economic scenarios, probability weights, model adjustments and overlays:
    - Recognise that there are clear signs that economic and credit conditions are worsening, but taking into account the significant economic support measures that regulators have taken.
    - Reflect that the economic shock from the pandemic should be temporary, although its duration is uncertain.
    - Give due weight to established long-term economic trends when preparing long-term forecasts, given the challenges of preparing detailed forecasts far into the future.
    - Avoid double-counting between any adjustments for COVID-19 and existing adjustments for other uncertainties such as EU withdrawal.

2. Main points (cont.)

On the other hand, the PRA regarding the treatment of payment holidays and similar schemes reccomends:

- To not consider the use of a COVID-19 related payment holiday by a borrower to trigger the counting of days past due or generate arrears under CRR.
- To consider that the use of government-endorsed payment holidays by a borrower would not on its own trigger the counting of days past due for the 30 days past due backstop used to determine SICR or the 90 days past due backstop used to determine default.
- The payment holidays should not automatically trigger:
  - a default under CRR.
  - the loans involved being moved into Stage 2 or Stage 3 for the purposes of calculating ECL.
- Not to assume a SICR event unless there is evidence to the contrary. The PRA recommends to assess whether the overall impact on ECL could be material by considering the differential between 12 month and lifetime ECL for the volume of customers that have received a payment holiday but show no other indicators of SICR. If deemed material, an overarching allocation could be made based on a sample of accounts.

Furthermore, the PRA regarding the treatment of borrowers who breach covenants due to COVID-19 consider that firms have scope to assess covenant breaches on a case-by-case basis and determine whether they indicate unlikeliness to pay. Subject to that individual assessment, we would expect that when the reasons are of a general nature or are firm-specific but unrelated to the solvency or the liquidity of the borrower, the conclusion will generally be that neither a SICR nor default has occurred.

- **FRC – Guidance for auditors**. The FRC has issued guidance to auditors intended to provide practical help in obtaining sufficient, appropriate audit evidence. The guidance provide a non-exhaustive list of factors auditors should be considering when carrying out audit engagements in the current circumstances, along with guidance on how they might be addressed.
- **FCA/PRA/FRC – Additional further measures**. The agencies underline additional further measures to allow companies and auditors to focus on the delivery of information to investors and the capital markets, that include
  - Delaying the filing of accounts by companies.
  - Postponement of auditor tenders.
  - Postponement of audit partner rotation.
  - Reduction of FRC demands on companies and audit firms.
  - Extension of reporting deadlines for public sector bodies.
- **PRA – Preservation of the Systemic Risk Buffer (SRB)**. The PRA has decided to maintain firms' SRB rates at the rate set in December 2019 in response to the economic shock from Covid-19. This decision applies to the CRD IV SRB, and any successor systemic buffer which could be implemented following the adoption of CRDV.

3. Next steps

- The PRA will next reassess firms' SRB rates in **December 2021**.

31/03/2020
Deferral of Basel III implementation

1. Context

In December 2017, the BCBS revised the CVA risk framework to align its design with the market risk framework published in January 2016 because Banks incurred significant CVA losses during the global financial crisis. It is therefore important that the regulatory framework mitigates this risk in a prudent and robust manner. Furthermore, in January 2019, the BCBS has now published a Standard on the minimum capital requirements for market risk which aims at addressing those issues that have been identified in the course of monitoring the implementation and impact of the standard published in 2016.

In this context, and after the publication of the consultation paper on November 2019, the BCBS has now published **Targeted revisions to the CVA risk framework**. In particular, BCBS made two main changes: i) reflecting the corresponding market risk revisions in the CVA risk framework and ii) considering additional targeted revisions to the CVA risk framework.

2. Main points

- **Aligning the CVA risk framework with the revised market risk framework**. This document introduces amendments to the CVA risk framework in three broad areas:
    - Aligning risk weights (RWs) with the market risk framework. The BCBS carry out the following amendments to the SA-CVA:
        - Reduce all delta RWs in the **interest rate risk** class by 30%.
        - Reduce all delta RWs in the **foreign exchange risk** class by 50%.
        - Reduce the delta RWs in the **counterparty credit spread and reference credit spread risk** classes for high yield and non-rated sovereigns from 3% to 2%.
        - Cap the **vega** RWs at 100%.
        - Reduce the **RWs in the BA-CVA for high yield and non-rated sovereigns**, including exposures to central banks and multilateral development banks from 3% to 2%.
    - Introducing index buckets. This document sets out the same new buckets, where banks could calculate capital requirements using credit and equity indices directly instead of looking through to the underlying constituents in the: i) counterparty credit spread risk class; ii) reference credit spread risk class; and iii) equity risk class of the SA-CVA. In addition, this document stablishes that the risk weights and base values of correlations for the index buckets be the same as for the revised market risk framework.
    - Revising the aggregation formula. This document revises the formula for aggregating capital requirements across buckets in the CVA risk framework in order to better align it to the market risk framework. This revision of the aggregation formula will improve the recognition of CVA index hedges in the SA-CVA.
- **Further possible adjustments of the CVA risk framework**.
    - Revising the treatment of client cleared derivatives in the CVA framework in order to enhance consistency with the corresponding counterparty credit risk (CCR) treatment and to incentivise central clearing. In particular, this document exempts from the CVA risk framework client exposures that meet the criteria for a preferential treatment under the counterparty credit risk framework and reduces the floor for the margin period of risk (MPoR) for clearing members' exposures to clients in the SA-CVA from ten to five days.
    - Adjusting the scope of portfolios subject to CVA risk capital requirements by excluding those securities financing transaction (SFTs) where the CVA loss exposures are immaterial.
    - Setting the multiplier mCVA to 1. Supervisory authorities would have the possibility of increasing the mCVA multiplier and hence, requiring the bank to maintain higher capital requirements for CVA risk if they determine that banks' CVA models are subject to a high degree of model risk.
    - Revising the SA-CVA and the BA-CVA in order to maintain an appropriate relative calibration and revised scaling of the overall capital requirements (scaled down by 0.65) calculated under both the reduced BA-CVA and full BA-CVA approaches.

3. Next steps

- The revised standard comes into effect on **1 January 2023**.

02/07/2020

The use of artificial intelligence and machine learning by market intermediaries and asset managers

1. Context

Artificial Intelligence (AI) and Machine Learning (ML), are increasingly being utilized in financial services, due to a combination of increased data availability and computing power. The use of this technology by market intermediaries and asset managers may create significant efficiencies and benefits for firms and investors. However, this use may also create or amplify certain risks, which could potentially have an impact on the efficiency of financial markets and could result in consumer harm. The use of, and controls surrounding AI and ML within financial markets is therefore a current focus for regulators.

In this context, the IOSCO has published the consultation report on **The use of artificial intelligence and machine learning by market intermediaries and asset managers**, to assist IOSCO members in providing appropriate regulatory frameworks in the supervision of market intermediaries and asset managers that utilize AI and ML. Although the guidance is not binding, affected members are encouraged to consider the proposed measures carefully in the context of their legal and regulatory frameworks.

2. Main points

- **Analysis of the current status of the use of AI and ML techniques**. The use of AI and ML has led firms to consider these techniques in the following areas to reduce costs, increase efficiency and support decision-making:
  - Advisory and support services. Most automated investment advisors use simple, rule-based algorithms, although some are beginning to utilize predictive ML algorithms. The automated advice system is therefore usually limited to generating potential advice or asset allocation for the investment adviser to review.
  - Risk management. Risk management involves using data to price and manage exposure. Market intermediaries are harnessing ML based risk management systems which could help provide an early-warning indicator of potential customer defaults.
  - Client identification and monitoring. ML has allowed market intermediaries to automate new client onboarding, fraud detection, money laundering and cyber-attack monitoring.
  - Selection of trading algorithms. Many intermediaries are offering a software solution that selects an appropriate trading strategy depending on the market situation. This solution seek to classify historical trading and performance, predict the performance of strategies and broker algorithms, and recommends when to use which algorithms.
  - Asset management/ Portfolio management. The supervised learning, where a function is inferred from labelled training data, has been used for small-scale pattern recognition and simple prediction models to aid on the buying and selling trading decisions.
- **Potential Risks and Harms Posed by the Use of AI and ML**. The evolution and increasing adoption of AI and ML may raise a number of conduct concerns:
  - Governance and oversight. Implementing AI and ML mostly rely on existing governance and oversight arrangements to sign off and oversee the development and use of the technology. Few firms identified a need to introduce new or modify existing procedural controls.
  - Algorithm development, testing and ongoing monitoring. In most cases there is not an established framework for specifically developing AI and ML. Instead, many firms use the same development and testing frameworks that they use for traditional algorithms and standard system development management processes.
  - Data quality and bias. The performance of AI and ML is inherently dependent on the quality of the dataset particularly when building the model. Learned bias in the dataset can impact the decisions made and provide undesirable outcomes.
  - Transparency and explainability. Adoption of AI and ML require algorithms that are accurate and understandable. While increased transparency could improve general public understanding, excessive transparency could lead to opportunities to manipulate the models.
  - Outsourcing. Use of external providers for AI and ML solutions may raise concerns about data privacy, cybersecurity and operational among others.
  - Ethical concerns. May arise when models develop certain social biases and recommend undesirable outcomes. The IOSCO's Fintech Network identified five primary themes:
    - **Beneficence**, ensure the model is being used in good faith.
    - **Non-malfeasance**, understand and interpret AI and ML based decisions to identify where misconduct may be taking place.
    - **Human autonomy**, ensure humans have power over the model.
    - **Justice**, ensuring there is accountability for the actions and that accountability comes with appropriate understanding of the models.
    - **Explainability**, ensure the outcomes arising out of the models used can be explained.

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2. Main points (cont.)

- **Firms' response to the potential risks arising from the use of AI and ML**. Some companies are developing AI and ML techniques, under the current regulatory framework. Although there are generic principles on systems and controls, only a few jurisdictions have regulatory requirements that apply specifically to IA and ML. Also, some companies indicated that they are limiting the use of AI and ML until they can comply with the applicable regulation on the use of the technology. Finally, the companies identified the following issues as a way to mitigate the possible risks posed by the use of the AI and the ML:
    - Culture. Manage drivers and behaviours within the firm to create a culture, which can help reduce any potential harm to investors caused by inappropriate behaviour. Ethical implications from the use of AI and ML could be viewed within this existing framework.
    - Accountability. Accountability aims to reduce harm to investors and strengthen market integrity by making individuals personally accountable for their conduct and competence.
    - Knowledge/expertise/skills. Ensuring the right skills, knowledge and expertise is essential for an employee to discharge the responsibilities associated with its position.
    - Operational resilience. Operational disruptions are one of the key concerns when using AI and ML techniques. The due diligence and oversight of third-party service providers has been revealed as a key mitigating control.
- **Proposed Guidance**. The proposed guidance reflect the expectation that IOSCO members will incorporate them into regulatory frameworks, with the aim of having market intermediaries and asset management companies incorporate standards of conduct. The following measures are included:
    - Measure 1. Consider requiring firms to have documented internal governance framework in relation to the development, validation, implementation and monitoring of AI and ML systems, with clear lines of accountability.
    - Measure 2. Require firms to adequately test and monitor the algorithms to validate the results of an AI and ML technique on a continuous basis.
    - Measure 3. Require firms to have the adequate skills, expertise and experience to develop, test, deploy, monitor and oversee the controls over the AI and ML systems that the firm utilizes.
    - Measure 4. Require firms to understand their reliance and manage their relationship with third party providers, including monitoring their performance and conducting oversight.
    - Measure 5. Consider what level of disclosure of the use of AI and ML is required by firms, including disclose meaningful information to customers and clients, and considering what type of information they may require to ensure they have appropriate oversight.
    - Measure 6. Consider requiring firms to have appropriate controls in place to ensure that the data is of sufficient quality to prevent biases for a well-founded application AI and ML.

3. Next steps

- The deadline for submitting comments is **October 26th 2020.**

01/07/2020
Amendments to IFRS 17

1. Context

In June 2020, all IASB members approved for issuance the amendments to IFRS 17, the successor accounting standard to IFRS 4, which represents a significant change to insurers' and reinsurers' accounting and consequently their financial statements.

In this context, the IASB has published the document on the **Amendments to IFRS 17** with the aim of reducing adaptation costs of the Standard, make financial performance easier to explain, and facilitate the transition for its implementation.

2. Main points

- **Main objectives pursued with the approved revisions/amendments:**
  - Reduction of costs. By simplifying certain aspects of the regulatory requirements, the IASB aims to reduce the adaptation costs to IFRS17 for insurance companies (also including the costs of technological developments).
  - Simplification of the results report. With the revision of the requirements, the IASB aims to eliminate the accounting mismatches that could arise under certain circumstances.
  - Facilitate the Transition to IFRS17. To facilitate the transition to the new IFRS17 for the largest number of entities, it has been decided to extend the standard's effective date by one year. In addition, various reliefs have been introduced in the transition process to reduce the complexity of applying IFRS17 for the first time.
  - Not alter the basis of IFRS17. One of the fundamental premises in reviewing possible amendments to IFRS17 has been not to alter the main objectives of the standard (greater transparency in financial information for reporting or providing consistent accounting for all insurance contracts).
  - Not undo the progress made. With the amendments to IFRS17 , the IASB did not want to negatively impact or render obsolete the developments and progress already made by the different entities during the 3 years of analysis and implementation of the standard.
- **Conclusions agreed during the IASB sessions** in relation to the review of the amendments to the IFRS17:

Enmiendas		
Exclusion	A) Scope exclusion for credit card and other similar contracts that provide credit or payment arrangements, which meet the definition of an insurance contract	Approved by the board
	B) Scope exclusion for loan contracts that meet the definition of an insurance contract	Approved by the board
Acquisition Cost Flows	Indications on the allocation of insurance acquisition cash flows for the estimation of expected recovery	Approved by the board
Contractual service margin (CSM)	Changes on the CSM attributed to investment services	Approved by the board
Reinsurance	Adjustments on the calculation of recovery of losses on the underlying insurance contracts	Approved by the board
Balance sheet	Presentation of the carrying amount for insurance contracts portfolios issued separately from those that are assets and those that are liabilities	Approved by the board
Risks	Expand the risk mitigation option for insurance contracts with direct participation properties	Approved by the board
Accounting Policy	Decision and implementation of an accounting policy on interim financial statements	No points raised by staff

2. **Main points (cont.)**

Effective Date	A) Delay of the effective date for the implementation of the IFRS17 standard until 01/01/2023	Approved by the board
	B) Extension of the expiry date of the temporary exemption from the application of IFRS9 to annual periods beginning after January 1, 2023	Approved by the board
Transition	Specific modifications in Transition	Approved by the board
Minor Modifications	Clarifications and specific adjustments on compliance cash flows	Approved by the board
Other items reviewed	A) Elimination of the requirement for annual cohorts	Dismissed by the board
	B) IFRS17 requirements for insurance contracts purchased in their settlement period	Keep the requirements of IFRS 17 unchanged
	C) Indications of the effect on previous interim reports	Modification of the norm by the board

3. **Next steps**

- Entities are required to apply the standard from **January 1st 2023**, although early application is permitted for entities that apply IFRS 9.

Single Resolution Board

03/08/2020

- **Guidance on operational continuity in resolution (OCIR)**
- **Guidance on FMI contingency plans**

1. Context

In April 2020, the SRB published the document 'Expectations for Banks' that sets out the capabilities the SRB expects banks to demonstrate in order to show that they are resolvable. As outlined in this document, operational continuity in resolution (OCIR) refers to the ability to effectively implement, from an operational point of view, the resolution strategy and, consequently, to stabilise and restructure the bank. Furthermore, according to this document banks are expected to prepare financial market infrastructure (FMI) contingency plans supporting continued access to critical and/or essential FMI services ahead of and during resolution.

In this context, the SRB has published the **Guidance on OCIR** that provides further clarifications to banks on how to implement SRB expectations related to service identification and mapping, assessment of operational continuity risk, mitigating measures such as having adequately documented, resolution-resilient contracts, appropriate management information systems and governance arrangements. Furthermore, the SRB has also published the **Guidance on FMI contingency plans** that sets out the SRB's expectations with regard to the minimum content of FMI contingency plans prepared by banks.

2. Main points

Guidance on operational continuity in resolution (OCIR)

- **Service identification and mapping**. Identification and mapping enables banks to conduct an assessment of the risks to operational continuity in resolution, which will be the basis for identifying and implementing appropriate mitigating actions to address them, including preparedness measures. In this regard, banks are expected to:
    - Undertake a comprehensive identification of the relevant services (provided by intragroup providers or by third parties), operational assets (owned or licensed/leased) and staff/roles.
    - Undertake and maintain a comprehensive mapping of all relevant services to the:
        - **Critical Functions (CFs) and Core Business Lines (CBLs)** needed for the effective implementation of the resolution strategy and consequent restructuring.
        - **Legal entities** (providing and receiving the services).
        - Relevant **operational assets and staff/roles** and their location (within the group and physically).
    - Undertake and maintain the mapping of relevant services and operational assets to the contracts/arrangements governing them.
    - Gather the above information in a catalogue of relevant services relationships across the group
- **Assessment of operational continuity risk**. The scope of the assessment of risks to operational continuity by banks is expected to cover all relevant services, operational assets and staff/roles. To this end, in conducting the risk assessment, banks are expected to:
    - Identify a comprehensive list of risk drivers, which are potential events that may cause the operational continuity risk to materialise.
    - Assess each category or sub-category of relevant dependency identified against the identified list of risk drivers.
- **Mitigating actions and preparedness measures**. Banks are expected to adequately document all relevant services, in such a way as to allow resolution authorities to take resolution action while ensuring operational continuity. For this purpose, the relevant services cover:
    - Those provided by units/divisions within the same group legal entity (intra-entity).
    - Those provided by another group legal entity.
    - Those outsourced to third parties.
- **Adequate management information system (MIS)**. Banks are expected to have MIS capability to produce timely, customised reporting of upto-date data which enables rapid access to the information needed to identify potential risks to service continuity resulting from entry into resolution, to facilitate separability and to develop the bank's business reorganisation plan.
- **Governance arrangements**. Banks are expected to have adequate policy and governance arrangements in place to ensure that operational arrangements are implemented in such a way as to meet operational continuity expectations.

2. Main points (cont.)

Guidance on FMI contingency plans.

- **General guidance**. The SRB expects the content of the FMI contingency plan to be tailored to the entity in question and to its specific relationships with FMI service providers globally. The FMI contingency plan is expected to be based on banks' understanding of FMI rule books and contracts with intermediaries, as well as on discussions between the banks and their FMI service providers, as appropriate. It is expected to contain at least the following information:
    - How the provider of critical and essential FMI services would be expected to respond to the lead up to and entry into resolution of a given entity, its parent or affiliate.
    - How the entities within the group deemed to remain operational throughout resolution would expect to continue to meet the conditions for uninterrupted access to each of the critical and essential FMI services.
    - The technology, as well as the operational and organisational arrangements, including human resources, that would need to be deployed to operationalise the contingency plans ahead of and during resolution.
    - The information that the critical and essential FMI service provider has indicated would be necessary for its risk-management decision-making, the communication plan for delivering this information and the potential constraints or risks in providing this promptly.
    - The consequences of any termination, suspension or other degradation in the entity's access to FMI services on its ability to perform critical functions, and the measures that the bank could take to mitigate the impact of a termination or suspension, how rapidly they could be implemented and the expected outcome of those measures.

EUROPEAN COMMISSION

30/07/2020

- **Amendments to Securitisation Regulation**
- **Amendments to Capital Requirements Regulation (CRR)**
- **Amendments to Markets in Financial Instruments Directive II (MiFID II)**
- **Amendments to Prospectus Regulation**

1. Context

On 28 April, the EC published a banking package in response to coronavirus, to facilitate bank lending and supporting households and businesses in the EU. This package was intended to encourage banks to make full use of the flexibility embedded in the EU's prudential and accounting framework, so that banks can fully support citizens and companies during this pandemic by providing funding.

In this context, the EC has published the **Capital Markets Recovery Package** with the aim to facilitate the recapitalisation of companies affected by the economic shock of the coronavirus pandemic. In particular, this package proposes targeted changes to capital market rules, which will encourage greater investments in the economy, allow for the rapid re-capitalisation of companies and increase banks' capacity to finance the recovery. The package contains targeted adjustments to the Prospectus Regulation, MiFID II and securitisation rules.

2. Main points

- **Amendments to Securitisation Regulation and CRR**. The aim of the proposals is to encourage a broader use of securitisation in the recovery phase, by freeing up bank capital and supporting banks in their effort to enhance lending to households and businesses. The amendments would:
    - Extend the Simple, Transparent and Standardised (STS) framework to on-balance-sheet synthetic securitization.
    - Remove regulatory obstacles to the securitisation of non-performing exposures (NPEs).
- **Amendments to MiFID II**. The EC proposes to make some targeted amendments to MiFID II requirements, in order to reduce some of the administrative burdens that experienced investors face in their business-to-business relationships:
    - The level of information provided to clients will now be more targeted to their needs:
        - Clients will receive **fewer automated mandatory disclosures**.
        - Information will no **longer be provided on paper**, except if retail clients specifically request so.
        - This proposal is lifting the **product governance requirements** for simple corporate bonds to make more plain vanilla corporate bonds available to retail investors.
    - Changes to derivatives rules for which the underlying value is a commodity, such as gas or electricity. The changes are intended to ensure that euro denominated EU commodity markets can grow so that the real economy is in a better position to shield themselves from future risks in commodity price movements.
    - Rules guiding the provision of research on small and mid-cap companies and on fixed income instruments will be partially revisited.
- **Amendments to Prospectus Regulation**. The EC proposes to create an “EU Recovery Prospectus” (i.e. a type of short-form prospectus) for companies that have a track record in the public market. This temporary prospectus would be easy to produce for companies, easy to read for investors, and easy to scrutinise for national competent authorities. This will help companies to raise capital (e.g. as shares) instead of going deeper into debt. A second set of targeted amendments to the Prospectus Regulation aims at facilitating fundraising by banks that play an essential role in financing the recovery of the real economy.

3. Next steps

- The European Parliament and the Council have to **agree on these legislative texts**. After the package is adopted and has entered into force, the changes to the Prospectus Regulation and the Securitisation Framework will apply directly in the Member States. The MiFID amendments will need to be transposed into national laws before they are applicable.

EUROPEAN COMMISSION

29/09/2020

- **Digital finance strategy**
- **Proposal for a regulation on markets in crypto-assets**
- **Proposal for a regulation on a pilot regime for market infrastructures based on distributed ledger technology**
- **Proposal for a regulation on digital operational resilience for the financial sector**
- **Proposal for a directive amending directives 2006/43/EC, 2009/65/EC, 2009/138/EU, 2011/61/EU EU/2013/36, 2014/65/EU, (EU) 2015/2366 and EU/2016/2341**
- **Retail payments strategy**

1. Context

In March 2018, the EC launched the FinTech Action Plan to enable the financial sector to make use of the rapid advances in new technologies, such as blockchain, artificial intelligence and cloud services. The Action Plan had three main objectives: to support innovative business models to scale up across the single market; to encourage the uptake of new technologies in the financial sector; and to increase cybersecurity and the integrity of the financial system.

In this context, the EC has adopted a new **Digital Finance Package**, including digital finance and retail payments strategies, and legislative proposals on crypto-assets and digital resilience. The EC aims to leverage synergies between high innovative start-ups and established firms in the financial sector while addressing associated risks.

2. Main points

- **Digital finance strategy**. The digital finance strategy sets out general lines on how Europe can support the digital transformation of finance in the coming years, while regulating its risks. The strategy sets out four main priorities:
    - Remove fragmentation in the Digital Single Market.
    - Adapt the EU regulatory framework to facilitate digital innovation.
    - Promote a data-driven finance.
    - Address the challenges and risks with digital transformation, including enhancing the digital operational resilience of the financial system.
- **Proposal for a regulation on markets in crypto-assets**. The EC proposes a framework on crypto-assets to allow for innovation in a way that preserves financial stability and protects investors. The EC differentiates between those crypto-assets already governed by EU legislation, and other crypto-assets:
    - Crypto-assets already governed by EU legislation will remain subject to existing legislation but the EC proposes a pilot regime for market infrastructures that wish to try to trade and settle transactions in financial instruments in crypto-asset form. The new rules will allow operators authorised in one Member State to provide their services across the EU (i.e. passporting). This should enable market participants and regulators to gain experience with the use of Distributed ledger technologies (DLTs) exchanges that would trade or record shares or bonds on the digital ledger.
    - For previously unregulated crypto-assets, including 'stablecoins', the EC proposes a bespoke regime. The proposed regulation sets strict requirements for issuers of crypto-assets in Europe and crypto-asset service providers wishing to apply for an authorisation to provide their services in the single market. Safeguards include capital requirements, custody of assets, a mandatory complaint holder procedure available to investors, and rights of the investor against the issuer. Issuers of significant asset-backed crypto-assets would be subject to more stringent capital requirements, liquidity management and interoperability requirements.

The EC also proposes a pilot regime for market infrastructures that wish to try to trade and settle transactions in financial instruments in crypto-asset form. The pilot regime represents a so-called 'sandbox' approach which allows temporary derogations from existing rules so that regulators can gain experience on the use of distributed ledger technology in market infrastructures, while ensuring that they can deal with risks to investor protection, market integrity and financial stability.

- **Proposal for a regulation on digital operational resilience for the financial sector**. Banks, stock exchanges, clearinghouses, as well as fintechs, will have to respect strict standards to prevent and limit the impact of ICT-related incidents. The EC also sets an oversight framework on service providers (e.g. Big Techs) which provide cloud computing to financial institutions.
- **Retail payments strategy**. The retail payments strategy for the EU aims to further develop the European payments market so Europe can benefit fully from innovation and the opportunities that come with digitalisation. The strategy focuses on:
    - Create the conditions to make the development of instant payments and EU-wide payment solutions possible.
    - Consumer protection and ensure payment solutions are safe.
    - Lessen Europe's dependency on big global players in this area.

3. Next steps

- The European Parliament and the Council have to **agree on these legislative texts**.

EUROPEAN CENTRAL BANK
EUROSYSTEM

09/07/2020

Guideline on the definition of the materiality threshold for banks that are directly supervised by national supervisors

1. Context

The Capital Requirements Regulation (CRR) requires the competent banking supervision authorities (CA) to determine the materiality threshold for banks that are directly supervised by national supervisors. The materiality threshold refers to the point at which a bank decides a debtor is in default on its loan. In 2018, the ECB defined in a regulation this materiality threshold for the banks that it supervises directly.

In this context, the ECB has published the **Guideline on the definition of the materiality threshold for banks that are directly supervised by national supervisors** for less significant banks (LSI). This Guideline specifies how National Competent Authorities (NCAs) shall exercise the discretion conferred on CAs in relation to LSIs with regard to the threshold for assessing the materiality of credit obligations past due, irrespective of the method used for the calculation of their risk-weighted exposure amounts.

2. Main points

- **Materiality threshold**. According to the CRR, NCAs shall require LSIs to assess the materiality of a credit obligation past due against the following threshold, which comprises two components:
    - A limit in terms of the <u>sum of all amounts past due owed by the obligor to the credit institution</u>, the parent undertaking of that credit institution or any of its subsidiaries (i.e. a credit obligation past due), equal:
        - For **retail exposures**, to EUR 100.
        - For **exposures other than retail exposures**, to EUR 500.
    - A limit in terms of the <u>amount of the credit obligation past due in relation to the total amount of all on-balance sheet exposures</u> to that obligor for the credit institution, the parent undertaking or any of its subsidiaries, excluding equity exposures, equal to 1 %.
    - NCAs shall require LSIs applying the definition of default laid down in CRR for <u>retail exposures at the level of an individual credit facility</u> to apply this threshold at the level of the individual credit facility granted to the obligor by the credit institution, the parent undertaking or any of its subsidiaries. A default shall be deemed to have occurred when both of the limits are exceeded for more than 90 consecutive days

3. Next steps

- This Guideline shall take effect on the day of its **notification to the NCAs** of the participating Member States.
- The NCAs shall comply with this Guideline no later than **31 December 2020** and they shall ensure that LSIs **notify them of the exact date** on which they will commence applying the threshold for the assessment of the materiality of a credit obligation past due.

EUROPEAN CENTRAL BANK
EUROSYSTEM

18/09/2020
Decision on the temporary exclusion of certain exposures to central banks from the total exposure measure in view of the COVID-19 pandemic

1. Context

In June 2020 the Capital Requirement Regulation (CRR) was amended by the CRR "quick fix" to provide for the possibility of temporarily excluding certain exposures to central banks (CBs) from the calculation of an institution's total exposure measure before 28 June 2021, that is, before the amendments to the leverage ratio requirement that were introduced by CRR II become applicable. In particular, this regulation permits an institution to make this exclusion where the institution's competent authority has determined, after consultation with the relevant CB, and publicly declared that exceptional circumstances exist that warrant the exclusion.

In this context, the ECB has published a **Decision on the temporary exclusion of certain exposures to central banks from the total exposure measure in view of the COVID-19 pandemic** where it concurs with ECB Banking supervision that there are exceptional circumstances allowing the temporary exclusion of certain CB exposures from the leverage ratio. This decision is aimed at easing the implementation of monetary policy

2. Main points

- **Temporary exclusion of certain exposures**. The ECB has determined that exceptional circumstances exist that warrant the exclusion of the following CB exposures from the total exposure measure in order to facilitate the implementation of monetary policies:
    - Coins and banknotes constituting legal currency in the jurisdiction of the CB.
    - Assets representing claims on the CB, including reserves held at the CB. It shall apply to those exposures to Eurosystem CBs that relate to deposits held in the deposit facility or to balances held on reserve accounts, including funds held in order to meet minimum reserve requirements.

The determination shall apply in relation to any institution that is a significant supervised entity in a euro area Member State.

3. Next steps

- This temporary exclusion will apply until **27 June 2021**

EUROPEAN CENTRAL BANK

EUROSYSTEM

24/09/2020
Guide on assessment methodology (EGAM)

1. Context

The Capital Requirements Regulation (CRR) requires model approval for new models of any risk type and for material model extensions and changes to credit, operational and market risk internal models. Indeed, banks are allowed to use internal models to calculate the value of their exposures to counterparty credit risk (CCR) and credit valuation adjustment (CVA) risk as long as these models meet regulatory requirements.

In this context, the ECB has published a **Guide on assessment methodology (EGAM)** for the internal model method (IMM) for calculating exposure to CCR and the advanced method for own funds requirements for credit valuation adjustment risk (A-CVA). The EGAM is to be applied in the context of any CCR related internal model investigation (IMI) and the ongoing monitoring of approved internal models, and outlines for supervisors how the ECB intends to investigate compliance with the existing legal framework when performing these tasks. It also provides optional guidance to significant institutions on the self-assessment of their IMM and A-CVA models.

2. Main points

- **Assessment methodology**. This guide provides transparency on the methodologies that the ECB uses to assess CCR model components within model investigations when assessing whether institutions meet regulatory requirements. The assessment methodologies that it presents should not be understood to be exhaustive since depending on the materiality of specific findings identified during an investigation, the assessment team may have to apply additional assessment methodologies. The guide contains the following sections:
    - Sequential and partial implementation of the IMM across different transaction types
    - Organisation and governance of model validation (e.g. frequency and completeness of the model validation process)
    - Internal governance, risk control, collateral management and audit (e.g. senior management and management body; CCR control unit)
    - IMM use test (e.g. use test in the internal capital allocation and corporate governance functions)
    - Documentation and design
    - Exposure quantification (e.g. risk factor models for market data; pricing functions, exposure grid and number of escenarios; calibration)
    - Validation methodologies (e.g. methodology for back-testing)
    - Stress testing (e.g. robustness of the organisation of the stress-testing process)
    - Data maintenance and IT processes (e.g. data documentation and reporting)
    - Specifics for the A-CVA (e.g. own funds requirement calculation for CVA risk)

13/07/2020
Guidelines (GL) on securitisation repository data completeness and consistency thresholds

1. Context

On November 2018, the ESMA published and submitted a Final Report on securitisation repositories technical standards, which includes a set of RTS on these procedures. Furthermore, the European Commision (EC) reviewed this RTS that led to an obligation to ensure that the data submission in respect of the "No Data Options" should be sufficiently representative of the underlying exposures in the securitization. On January 2020, the ESMA issued a consultation paper (CP) on the draft Guidelines (GL) on securitization repository data completeness and consistency thresholds, receiving 12 responses from entities and representative bodies in the following market segments: repositories, industry representative bodies and asset management.

In this context, the ESMA has published the **Final GL on securitisation repository data completeness and consistency thresholds**, with the objective to establish consistent, efficient and effective supervisory practices within the European System of Financial Supervision and to ensure the common, uniform and consistent application of the Securitisation Regulation by describing thresholds for when the use of 'No Data Options' prevent the data submission from being 'sufficiently representative of the underlying exposures in the securitization'. In particular, based on the feedback received to the CP, the ESMA has increased from 20 to 35 the tolerance thresholds for both the 'legacy assets field threshold' (i.e. Threshold 1 percentage occurrence) and the 'legacy IT systems field threshold' (i.e. Threshold 2 percentage occurrence) for the Corporate underlying exposure template, with a view to tightening these thresholds over time once market participants have gained experience with the ESMA reporting requirements.

2. Main points

- **Thresholds**. This GL establishes that securitization repositories should verify that the 'No Data Options' do not prevent the data submission from being sufficiently representative of the underlying exposures in the securitization by determining:
  - The individual field percentages of applicable 'No Data Options' for each exposure type report in that data submission by: i) determining the number of applicable 'No Data Options' reported in each field in that exposure type report; and ii) dividing each of those field numbers by the total number of underlying exposures reported in that exposure type report.
  - Whether the number of those percentages exceeds any of the thresholds applicable to those exposure type reports by determining:
    - **The number of individual field percentages** in the exposure type report that are greater than 0% and below 10% (Threshold 1 percentage occurrence), and equal to or greater than 10% (Threshold 2 percentage occurrence).
    - Whether the **Threshold 1** percentage occurrence exceeds Threshold 1 set out in this GL applicable to that exposure type report.
  - If either threshold set out in this GL is exceeded for any of the exposure type reports in the data submission, securitization repositories should consider that the 'No Data Options' prevent that data submission from being sufficiently representative of the underlying exposures.

3. Next steps

- This Final GL may apply as of **1st January 2021**

15/07/2020
Results of the third stress test exercise regarding CCPs in the EU

1. Context

One of the objectives of the EMIR (Regulation (EU) No 648/2012 on OTC derivatives, central counterparties (CCPs) and trade repositories) is to promote central clearing and ensure safe and resilient CCPs. Therefore, ESMA shall at least annually, in cooperation with the European Systemic Risk Board (ESRB), initiate and coordinate Union-wide assessments of the resilience of CCPs to adverse market developments. Following this mandate, the ESMA published in April 2019 the Methodological framework for its third EU-wide CCPs stress test with the aim to assess the resilience of CCPs, identify potential shortcomings, and issue recommendations as appropriate.

In this context, the ESMA has published the **results of its third stress test exercise regarding CCPs in the EU** which confirm the overall resilience of EU CCPs to common shocks and multiple defaults scenarios arising from credit, liquidity and concentration shocks. The credit stress test highlighted differences in resilience between CCPs under the selected market stress scenario, although no systemic risk has been identified. Similarly, the liquidity stress test showed EU CCPs to be resilient under the considered scenarios and did not reveal any systemic risk. Furthermore, the new concentration component highlighted the need for EU CCPs to accurately account for liquidation cost within their risk frameworks.

2. Main points

- **Scope**. The exercise covered 16 authorised EU CCPs, including the three UK CCPs.
- **Credit stress**. Two default scenarios were run, combined with the common market stress scenario, on two different reference dates, 21 December 2018 and 8 March 2019. The first scenario is where the default of two clearing member groups under common price shocks is assumed separately at each CCP. The second scenario involves a default of the same two groups for all CCPs EU-wide, designed to assess the resilience of CCPs collectively to the market stress scenario. The results show that:
    - On 8 March 2019 one CCP exhibits a shortfall of prefunded resources which would have to be covered with additional non-prefunded resources; and
    - On 21 December 2018, there is no shortfall of prefunded resources at any CCP.
- **Liquidity stress**. On the liquidity component two default scenarios have been run on a single reference date (8 March 2019), a CCP scenario, and a EU-wide scenario. Overall, the liquidity results show EU CCPs to be resilient under the implemented scenarios and tested assumptions, with only a few CCPs exhibiting a shortfall in at least one currency, requiring them to transform some of their resources available in one currency into another currency to meet their liabilities in a timely manner. Nevertheless, the amounts remain negligible compared to the size of the FX market.
- **Concentration stress**. The EU-wide concentration analysis shows that concentrated positions represent a significant risk for EU CCPs. For most asset classes, concentrated position risk is clustered in one or 2 CCPs. At EU level, the largest concentration risk can be found in fixed income, with around 20bn €. Concentration in commodity derivatives and in the equity segment (securities and derivatives) is also significant, with around 9.5bn € of concentration risk. The analysis found that concentration risk is factored in explicitly in a majority of CCPs, through dedicated margin add-ons.
- **Reverse credit stress**. The reverse stress tests analysis assessed the sensitivity of the credit stress results to stepwise increases in both the number of defaulting groups and the severity of market shocks. Overall, the analysis shows that incremental changes in market shocks severity are more harmful than increases in the number of defaulting members.

3. Next steps

- In line with the EMIR mandate, where the assessments expose shortcomings in the resilience of one or more CCPs, ESMA will issue the necessary **recommendations**.

15/07/2020

- **MiFID II/MiFIR Review Report on the transparency regime for equity and equity-like instruments, the double volume cap mechanism and the trading obligations for shares**
- **MiFIR report on systematic internalisers in non-equity instruments**

1. Context

MiFIR regulation requires ESMA to submit a report to the European Commission (EC) on the impact in practice of the transparency obligations and, in particular, on the impact of the volume cap mechanism. In order to provide for a comprehensive and meaningful assessment, ESMA has decided at its own initiative to also include an assessment of other key transparency provisions namely, the share trading obligation and the transparency provisions applicable to systematic internalisers (SI). Furthermore, competent authorities and ESMA shall monitor the application of the pre-trade transparency obligations applicable to Sis in respect of bonds, structured finance products, emission allowances and derivatives.

In this context, the ESMA has published **two final Reports reviewing key provisions of the MiFID II/MiFIR transparency regime**. The first Report reviews the MiFIR transparency regime for equity instruments and contains proposals for targeted amendments regarding the transparency obligations for trading venues and specifically the double volume cap mechanism. It also includes recommendations on other key transparency provisions, in particular the trading obligation for shares and the transparency provisions applicable to SI in equity instruments. The second Report reviews the pre-trade transparency obligations applicable to SI in non-equity instruments.

2. Main points

<u>MiFID II/MiFIR Review Report on the transparency regime for equity and equity-like instruments, the double volume cap mechanism and the trading obligations for shares</u>

- **Transparency**. This final report contains proposals aiming at simplifying the structure of the transparency regime while trying to improve the overall pre- and post-trade transparency available to market participants. This report focuses on the transparency regime applicable to SI and covers the double volume cap mechanism. It also contains an analysis of the post-trade transparency regime for equity and equity-like instruments both on- and off-venue and the transparency regime applicable to third-country transactions. In particular, the ESMA recommendations concern three main aspects of the MiFIR regime:
    - the <u>level of pre-trade transparency</u> and the waivers.
    - the definition of a <u>liquid market</u>.
    - the emergence of <u>new trading systems</u>.

<u>MiFIR report on systematic internalisers in non-equity instruments</u>

- **Pre-trade transparency obligations for SI in respect of non-equity instruments**. This report explains the legal framework and presents an overview of European SI. It also provides an assessment of the effectiveness of the regime for SI in liquid and illiquid instruments and formulates recommendations to address possible inefficiencies.
- **Monitoring the application of the pre-trade transparency regime for SI in non-equity instruments**. This document provides the outcome of the monitoring of:
    - Sizes at which <u>quotes are made available to clients</u> and other market participants.
    - Whether <u>quoted prices reflect prevailing market conditions</u>.

3. Next steps

- Both reports are submitted to the EC and is expected to be taken into consideration by the EC for further **legislative proposals**.

07/07/2020
Final Guidelines on the treatment of structural FX under Article 352(2) of Regulation (EU) No 575/2013 (CRR)

1. Context

Article CRR 352 (2) allows, with the approval of the competent authorities (CA), the exemption of positions taken to hedge exchange rate effects on the capital ratio under certain conditions (e.g. if they are of a structural nature, or if they are non-trading). In order to harmonise EU interpretation and implementation of the treatment of structural FX positions, in June 2017, the EBA published a discussion paper (DP) to gather feedback on current stakeholder practice and interpretation. This DP outlined the rationale behind the structural FX treatment (modified in the Fundamental Review of the Trading Book) and discussed the elements that need to be considered by institutions and CAs when assessing this provision. Further, on 16 October 2019 the EBA published a consultation paper (CP) which gathered responses from twenty one respondents.

In this context, the EBA has published the **Final Guidelines (GL) on the provision regarding the treatment of structural FX provision** to set objective criteria that CAs should consider for the purpose of assessing whether the conditions to exclude the positions taken by firms to hedge against the adverse effect of the exchange rate on capital ratios are met while granting a balanced degree of flexibility. In particular, these GL include the procedural admissibility of a request, the substantive admissibility of a request, the assessment of the structural nature of the positions and of the intention to hedge the ratio against the adverse effects of the exchange rate, the size of the position to be excluded, and the ongoing monitoring of the permission.

2. Main points

- **Procedural admissibility of a request**. CAs should deem as acceptable the submission of more than one request for permission by an institution, including where such requests relate to different levels of application of the own funds requirements. Institutions should justify how the positions in the currency for which they seek the exemption meet the specifications and specify:
    - The methodology that they intend to use <u>to exclude the specific position from the net open position in the foreign currency</u> where the own funds requirements for FX risk are calculated using the IRB approach.
    - The methodology that they use to calculate <u>the own funds requirements for FX risk and for removing the position for which they seek the exemption from the net open position</u>, where they compute the own funds requirements for market risk on a consolidated basis without having the permission to offset positions in some institutions or undertakings in the group.
- **Substantive admissibility of a request**.
    - <u>Hedging of a ratio</u>. The request for the permission should specify which of the three capital ratios (Common equity tier 1, Tier 1 or Total capital ratio) the institution aims to hedge and the rationale for the selection of that ratio.
    - <u>Currencies to which the hedging relates</u>. The request by an institution to exempt positions should be made with regard to currencies that are relevant to the business of the institution. In particular, these should be the five currencies for which the net open positions of the institution calculated are the largest, or other relevant currencies, if there is adequate justification. In an institution seeks the permission with regard to positions in more than one relevant currency, they should apply additional conditions.
    - <u>Positions eligible to be exempted</u>:
        - Positions in the foreign currency stemming from an item that is held in the trading book (TB) should **not be considered as eligible to be exempted**.
        - In order for a position in a foreign currency to be **considered eligible to be exempted**, that position should be net long at the level at which the institution computes the own funds requirements for market risk. In case the institution computes the own funds requirements on a consolidated basis, additional requirements are established.
- **Assessment of the structural nature of the positions and of the intention to hedge the ratio**.
    - <u>Assessment of the structural nature of a position</u>. The following positions should be considered as positions of a structural nature:
        - Where the institution requesting the permission applies the requirements of CRR on an **individual basis**, a position in the relevant currency which corresponds to investments in subsidiaries that are included in the same scope of consolidation as the institution requesting the permission
        - Where the institution requesting the permission applies the requirements of CRR on a **consolidated basis**, a position meeting the following conditions: i) it stems from an investment in a subsidiary that has been included in the consolidation; and ii) the currency of the position coincides with the reporting currency used by the subsidiary holding the item to which such position corresponds.
        - **Other position not meeting the previous conditions** but are adequately justified based in the following aspects: i) whether those positions are related to the cross-border nature of the institution; ii) whether those positions are related to a business of the institution which is consolidated and stable over time; and iii) how the institution plans to manage those positions over time.

2. Main points (cont.)

- <u>Assessment of the intention to hedge the ratio – governance and risk management strategy of the structural positions</u>. In order for the CAs to be able to establish that the position in the relevant currency has been taken or is maintained for the purpose of hedging the relevant ratio, certain conditions should be met (e.g. the existence of a risk-management framework for managing such positions).

- **Size of the position to be excluded**. The size of a position to be excluded should be determined by first calculating the maximum net open position in the relevant currency and by comparing the size of the structural position that the institution has taken for hedging the ratio.
- **Ongoing monitoring of the permission**. Institutions should perform the calculation of the maximum net open position at least monthly. In addition, CAs may request institutions to compute the maximum net open position and the sensitivity at any time. Furthermore, for each of the currencies for which institutions have the permission from the CA to exclude some positions from the corresponding net open position, institutions should calculate on a monthly basis, among others, the net position in the currency previous to any permission, the size of the net position that is structural and which has been taken for hedging the ratio or the maximum net open position, and report them to the CA on a quarterly basis.

3. Next steps

- This guideline will be applicable from **January 1st 2022**. CAs should review, update or revoke permissions already granted at the date of application of these GL

10/07/2020
- **Report on the implementation of selected COVID-19 policies**
- **Notifications on general payment moratoria**

1. Context

The EBA has taken a number of steps to clarify the flexibility embedded in the regulatory capital framework and provide operational relief in response to the COVID-19 pandemic. Among others, the EBA has published the Guidelines (GL) on legislative and non-legislative moratoria on loan repayments (GL on moratoria) whereby conditions are provided under which exposures covered by the moratoria should not necessarily be classified as forborne, and consequently, would not have to be automatically assessed and distressed restructuring under the definition of default.

In this context, the EBA has published its **first COVID-19 implementation report**, which provides clarifications on questions raised in the context of the EBA's monitoring the implementation of COVID-19 policies. This implementation report, includes questions and answers brought to the attention of the supervisory community on the GL on moratoria, which is accompanied by a **summary overview of the general payment moratoria in place in the EU**. Furthermore, this report also includes consideration of criteria that institutions should adopt with regard to operational risk in the context of COVID-19 with the aim to reduce possible inconsistencies in the calculation of capital requirements calculations related to operational risk.

2. Main points

- **GL on moratoria**. This Report cover EBA's considerations regarding the following aspects:
  - Similar measures. The EBA considers that the number of options available to institutions participating in the general memorandum scheme is limited to ensure that the relief measures offered by individual institutions remain similar. These options may relate to the length of the moratorium, the length of the extension of the payment schedule, the application of the moratorium to principal amounts or full instalments, or other specific aspects of the conditions offered, but not to all of these elements at the same time. Furthermore, the implementa the moratorium and postpones one or several payments and no interest is charged for the time covered, or alternatively, the moratorium may be neutral on the NPV if at least one of the instalments is adjusted upwards or added.
  - Selection criteria. The scope of application of the moratorium is offered to clients based on their request to apply the moratorium, presenting the extent to which the obligor is affected by the COVID-19 pandemic. In this sense, the acceptance of the obligor's application cannot be dependent on the assessment of creditworthiness or payment capacities of the obligor, but on the general criteria specified in the moratorium.
- **Operational risk**. This section covers the common criteria that institutions should follow for the identification and treatment tion of the moratorium may specify a limited list of options for which the choice lies with the obligor and not with the institution.
  - Effect on the net present value (NPV). The effect of the moratorium on the NPV are not specified in the GL as it is up to the institution to follow the conditions set out in the legislative or non-legislative moratorium. Decline in the NPV might occur if the obligor makes use of of operational risk events and losses through the provision of five main types of impacts related to COVID-19 that must be supervised by the institutions in order to address possible doubts and to reduce inconsistencies in their use for capital requirements calculations. For each type of the impacts described, clarifications on how these events should be treated (e.g. as operational risk losses considered under the Advanced Measurement Approach (AMA) and Basel III Standardised Approach (SA)) are provided:
  - Impacts of COVID-19 on institutions' business continuity. Interruption or deterioration of the quality of services provided to counterparties, customers, etc., caused by the lack of effective business continuity and contingency plans.
  - Impacts of COVID-19 on institutions' ordinary course of business. Reduction of profits from banking and financial services caused by the reduced access to offices due to lockdowns.
  - Impacts of COVID-19 on loss events. Increase in events and/or losses either related solely to operational risk or at the boundaries between operational risk and market risk.
  - Impacts of COVID-19 on credit risk and potential consequences on operational risk. Losses should be considered within the scope of operational risk for the calculation of AMA/SA capital requirements unless it has been considered in the estimation of the credit risk RWA.
  - Impacts of implementing novel legislation in response to COVID-19. Additional costs incurred as a result of newly adopted legal obligations (e.g. mandatory changes in credit or labour standards).

24/07/2020

Draft Regulatory Technical Standards on requirements that an internal methodology or external sources used under the internal default risk model are to fulfil for estimating default probabilities and losses given default under Article 325bp(12) of Regulation (EU) No 575/2013 (Capital Requirements Regulation 2 - CRR2)

1. Context

After the Basel Committee on Banking Supervision (BCBS) finalised and published standards on Minimum capital requirement for market risk in January 2019, previous minimum capital requirements for market risk in the global regulatory framework were replaced. As a key requirement, institutions using the Internal Model Approach (IMA) to compute own funds requirements for market risk are required to compute additional own funds requirement using an internal default risk model for their positions in traded debt and equity instruments included in IMA trading desks.

In this context, the EBA has published the **consultation on draft Regulatory Technical Standards (RTS) on default probabilities (PDs) and losses given default (LGDs) for default risk model for institutions using the new IMA under the Fundamental Review of the Trading Book (FRTB)** to clarify the requirements that an institution's internal methodology or external sources are to be met for the estimation of PDs and LGDs under the default risk model.

2. Main points

- **Estimating PDs / LGDs**. The requirements for estimating PDs where the institution has not received any permission to use the IRB Approach and the requirements for estimating LGDs where the institution has not received any permission to use their own estimates of LGDs , shall be:
  - <u>For an institution's internal methodology</u>, all the requirements needed to be fulfilled for an institution to be granted the permission to estimate PDs, or LGDs respectively.
  - <u>For external sources</u>, provide estimates of PDs or LGDs respectively, that are appropriate having regard to the institution's portfolio and that are validated on a periodic basis for their use in the internal default risk model, provide a hierarchy of sources to ensure the overall consistency of PDs or LGDs estimates used in the internal default risk model when more than one external source is used and meet the documentation requirements.
- **Documentation requirements for external sources**. To comply with minimum qualitative standards, an inventory of the external data sources used by the institution when estimating PDs and LGDs shall be kept up to date (e.g. a description of the methodologies used from external sources, the results of the validation performed and the hierarchy of the sources used).

3. Next steps

•Comments on this consultation can be submitted until **October 22nd 2020**.

24/07/2020
CP on Draft GL alternative treatment of exposures related to tri-party repurchase agreements

1. Context

The market of repurchase transactions is a major source of short-term funding for institutions. Due to the amendment introduced by the CRR II, an institution may replace the collateralized amount of its exposures with a collateral issued by a third party due to a tri-party repurchase agreement (tri-party repo) facilitated by a tri-party agent with the full amount of the limits that the institution has instructed the tri-party agent to apply to the securities issued by that collateral issuer. This replacement must be conducted under certain conditions determined by the EBA.

In this context, the EBA has published the **Consultation Paper (CP) on Draft Guidelines (GL) specifying the conditions for the application of the alternative treatment of institutions' exposures related to "tri-party repurchase agreements" for large exposures purposes** for those instances where an institution decides to make use of such possibility, with the objective to ensure a prudent and harmonized applications of the provisions provided within the CRR while keeping the approach simple, ensure a level playing field among institutions in the Union, and provide guidance to competent authorities (CAs) in their assessment of compliance.

2. Main points

- **Scope of application**. These GL will apply in relation to institutions' exposures to collateral issuers due to tri-party repos facilitated by a tri-party agent and are addressed to CAs and to financial institutions.
- **Governance arrangements**. This CP establishes that institutions should ensure that: i) the use of the alternative treatment is adequately documented in its policies and procedures, and ii) their management body oversees and monitors the implementation of the alternative treatment.
- **Verification of the establishment of appropriate safeguards by the tri-party agent to prevent breaches of the limits instructed by the institution to apply to the securities issued by the collateral issuer**. This CP sets out that institutions must ensure minimum elements to be included in the service agreement (e.g. a clear description of the services provided by the tri-party agent with regard to collateral management including securities delivery), and that the content of the safeguards to be put in place by a triparty agent to ensure compliance with the limits instructed by the institution includes that, among others, the tri-party collateral management is only performed in accordance with the duly signed service agreement.
- **Determination, revision and monitoring of the limits instructed by the institution to the tri-party agent to apply to the securities issued by the collateral issuer**.
    - Determination of the instructed limits. Institutions should determine specific limits, expressed as an absolute amount or percentage value of all securities or a specific type of security in the collaterals issuer's portfolio.
    - Revision of the instructed limits and its frequency. Institutions should ensure that the service agreement includes the circumstances under which the instructed limits could be revised and the frequency of their revision.
    - Monitoring of the instructed limits and its frequency. Where institutions make use of the alternative treatment, they should verify that the systems that the tri-party agent has in place to monitor the collateral composition are adequate with regard to the accurate and timely management of the instructed limits.
- **Ensuring compliance with the large exposure limits**. This CP establishes that institutions should ensure that the use of the alternative treatment does not lead to a breach of the large exposure limits, and where a breach of the instructed limits has occurred, the tri-party agent should inform the institution immediately of, among others, the name of the collateral issuer in relation with which the breach has occurred, and the date when the breach occurred.
- **Communication with CAs**. This CP sets out that where an institution intends to make use of alternative treatment with a tri-party agent, it should notify ex-ante the CA. In this sense, the CAs may inform the institution within four weeks if it has any material concerns on the use of the alternative treatment (i.e. regarding the institution, the service agreement, and the tri-party agent), and institutions should not use the alternative treatment until the competent authority has satisfied itself that the institution has satisfactorily addressed any material concerns.

3. Next steps

- Comments to this CP shall be submitted by **22nd October 2020**.
- These GL are expected to apply from **28th June 2021**.

28/07/2020
Guidelines on the pragmatic 2020 SREP

1. Context

As part of the coordinated response to the COVID-19 pandemic, the EBA outlined in its statement of 22 April 2020 how the principles of effectiveness, flexibility and pragmatism will guide supervisory approaches in relation to the 2020 supervisory review and evaluation process (SREP). However, it also noted that further engagement with competent authorities is necessary to ensure that clarity on such an approach would be made available to safeguard and preserve convergent supervisory approaches and outcomes enabled by the SREP Guidelines in the context of this crisis.

In this context, the EBA has published the **Guidelines on the pragmatic 2020 SREP**, which is an annex to the previous guidelines, and grant a special procedure for the SREP for the year 2020. These Guidelines identify how flexibility and pragmatism could be exercised in relation to the SREP framework in the context of the COVID-19 pandemic. These Guidelines, are addressed to competent authorities and elaborate on the key aspects of SREP for the year 2020: (i) Focus of the 2020 SREP; (ii) Overall SREP assessment and scoring; (iii) Supervisory measures; and (iv) Implementation of SREP in cross-border context.

2. Main points

- **Focus of the 2020 SREP**. For the identification of the most relevant risks and vulnerabilities for institutions in the context of the COVID-19 crisis the following information from institutions should be seen as the main input of the SREP, as appropriate:
  - Material changes.
  - Key risks and vulnerabilities: credit risk; liquidity and funding risk; operational risk, with focus on information security and business continuity management; profitability; and the business model framework with a link to governance arrangements.
  - The ICAAP and ILAAP should provide support to competent authorities' overall assessment of the institution's soundness and viability. Competent authorities may request updated ICAAP/ILAAP information, if they consider that information relevant for the application of these guidelines has become obsolete.
- **Overall SREP assessment and scoring**. The overall SREP assessment of the viability of an institution should reflect the conclusions of the supervisory review. The 2020 SREP risk and viability scores assigned in the previous SREP cycle may remain unchanged.
- **Supervisory measures**. Pillar 2:
  - Requirements (P2R). Competent authorities should apply flexibility in adapting the quality of capital that institutions are allowed to use to meet the P2R, while ensuring a sound coverage of risk and the minimum composition laid down in the SREP Guidelines.
  - Guidance (P2G). When determining and setting P2G, competent authorities should act in accordance with the minimum engagement model. Where this is justified by uncertainties over the institution's sensitivity to adverse scenarios, competent authorities may maintain the P2G determined and set during the previous SREP cycle. Competent Authorities may tolerate that the institutions operate temporarily with a level of own funds below the level determined by P2G, but institutions should report this without undue delay.
- **Implementation of SREP in cross-border context**. The consolidating supervisor and the relevant competent authorities should endeavour to agree on a common determination of whether the supervisory review and evaluation process for the 2020 SREP cycle will be performed with or without the application of this Guidelines for all group entities.

3. Next steps

- These GL are already **in force** since the day of their publication

31/07/2020

Updates on 2021 EU-wide stress test timeline sample

1. Context

The EBA launched its first stress test in 2011 in order to inform the Supervisory Review and Evaluation Process (SREP) that competent authorities (CAs) carry out, with the aim to provide supervisors, banks and other market participants with a common analytical framework to consistently compare and assess the resilience of EU banks and the EU banking system to shocks, and to challenge the capital position of EU banks. In march 2020, following the outbreak of the COVID-19, the EBA decided to postpone the 2020 EU-wide stress test exercise until 2021 to provide greater flexibility to banks during the pandemic.

In this context, the Board of Supervisors (BoS) of the EBA has agreed on the **tentative timeline and sample of the 2021 EU-wide stress test**. Furthermore, the EBA has also agreed on the preliminary timeline for the potential future changes to the EU-wide stress test framework based on the feedback from the discussion paper launched on January 2020.

2. Main points

- **Timeline**. The stress test exercise is expected to be launched at the end of January 2021 and its results to be published at the end of July 2021.
- **Sample**. The 2021 EU-wide stress test will be carried out on a sample of 51 banks, of which 39 from the Euro Area, covering broadly 70% of the banking sector in the euro area, the non-Eurozone Member States and Norway. The tentative sample includes the banks that were going to participate in the postponed 2020 stress test, with some adjustments to ensure sufficient coverage in terms of total assets as well as to reflect changed conditions for specific institutions. UK banks are excluded from the sample while, their EU27 subsidiaries are included when necessary.
- **Changes to the stress test framework**. The EBA has agreed on the preliminary timeline for the potential future changes to the EU-wide stress test framework. A final decision on potential changes to the framework, which takes account of the feedback received on the discussion paper is expected to be taken in Q2-Q3 2021, while the implementation of any potential change will be possible for the 2023 EU-wide stress test.

31/07/2020

- **Consultation paper on draft RTS methodology to estimate P2 and CBR for setting MREL requirements**
- **Consultation paper on draft ITS on reporting decisions on MREL**
- **Consultation paper on draft RTS on indirect subscription of MREL instruments within groups**

1. Context

The bank recovery and resolution directive (BRRD) adopted in 2014 establishes a framework for the recovery and resolution of credit institutions, investment firms and related entities. The BRRD provides that resolution authorities, in cooperation with relevant competent authorities, shall ensure that institutions meet at all times a minimum requirement for own funds and liabilities eligible for bail-in (MREL). Furthermore, the BRRD2 adopted in 2019, requires entities which are not a resolution entity to issue own funds to any entity in the resolution group, and eligible liabilities directly or indirectly to the resolution entity.

In this context, the EBA has published the following public consultations on various elements of the MREL framework:

- **The Consultation paper (CP) on draft Regulatory Technical Standards (RTS) methodology to estimate Pillar 2 (P2R) and combined buffer requirements (CBR) for setting MREL requirements** where it proposes a pragmatic approach aiming to create a framework to improve accuracy in setting the MREL requirement, without requiring sub-consolidation at resolution level and without blurring the lines of responsibilities between competent and resolution authorities in the capital setting process.
- **The CP on draft Implementing Technical Standards (ITS) on reporting decisions on MREL** specifying uniform reporting templates, instructions and methodology for the identification and transmission of information by resolution authorities to the EBA.
- **The CP on draft RTS on indirect subscription of MREL instruments within groups**, specifying the methods to avoid that instruments indirectly subscribed by the resolution entity for the purpose of meeting the MREL hamper the smooth implementation of the resolution strategy.

2. Main points

Consultation paper on draft RTS methodology to estimate P2 and CBR for setting MREL requirements

- **Estimation of the additional equity requirement**. This CP proposes the rules for determining the additional own funds requirement for resolution entities not subjected to such requirement at the consolidated level of the resolution group. These rules are established, among other things, whether the difference between the measure of total risk exposure of the resolution entity at the consolidated level of the resolution group and that of the parent entity of the Union is greater or less than 5%.
- **Pillar 2 estimation**. When a resolution group exceeds the 5% threshold established in the previous point, and does not meet certain requirements in relation to the measure of total risk exposure on an individual basis of the entity that represents the largest proportion of that measure on a consolidated basis of the resolution group, the resolution authorities, in communication with the competent authorities, shall adjust their estimate of the additional capital requirement if there are significant risks that have not been considered. To this end, two main approaches, or a combination of both, are proposed for estimating the capital requirements of the resolution group in order to establish the MREL:
    - A top-down approach, where the resolution authorities should seek to adjust the group requirement, or the one to which the resolution group is the closest, and for which a capital requirement has been set.
    - A bottom-up approach, to be used in cases where at least one of the solo requirement set on entities comprising the resolution group is higher than the group requirement.
- **Combined buffer requirement**. With regard to the estimation of the CBR the proposed approach is the following:
    - For the GSII buffer, the proposal is to keep the GSII buffer as an input to computing MREL.
    - For the OSIIs buffer, the proposal is to use as an input to calibrate MREL the buffer of either the banking group or largest entity constituting the resolution group, whichever is the closest in size.

Consultation paper on draft ITS on reporting decisions on MREL

- **Templates**. The draft ITS set out in this CP substitute the previous ITS on MREL reporting, in order to properly reflect the changes introduced in the BRRD. These draft ITS specify uniform formats, templates and definitions that must be used by resolution authorities when transmitting the information regarding MREL requirements to the EBA. These ITS:
    - Covers the essential components of MREL decisions, in particular the structuring of the decision around a loss absorption amount and a recapitalisation amount and the corresponding adjustments.
    - Contains the minimum basic information to be filled for all institutions, laying down the legal entity to which the decision is addressed, the consolidated or individual basis of the decision and its date. Where the MREL requirement has been waived in line with the BRRD, no additional information is necessary. If on the other hand, the MREL has not been waived but the recapitalisation amount has been set to zero, a simplified reporting is allowed.

2. Main points (cont.)

Consultation paper on draft RTS on indirect subscription of MREL instruments within groups

- **Indirect subscription of MREL instruments within groups**. The BRRD2 calls for methods that avoid that indirectly issued instruments hamper the smooth implementation of the resolution strategy. To fulfill this mandate, the CP proposes draft RTS where a general deduction framework applies in the general case, and a “fall-back” solution applies where the deduction approach cannot apply:
  - The deduction approach is a ‘full holding-based deduction method’, where the eligible instruments deduction for internal MRELL (iMREL) at intermediate subsidiary level amounts to the full amount of the intermediate subsidiaries’ holdings of iMREL eligible instruments of the lower subsidiaries, and a risk weight of 0% is applied to these holdings.
  - Fall-back solution. Where the general deduction framework is not practicable, the resolution authority assesses whether indirectly issued instruments hamper the smooth implementation of the resolution strategy, and may apply the measures of BRRD2 on the breach of MREL, including the removal of a substantive impediment to resolvability.

3. Next steps

- Comments to the CP on draft RTS methodology to estimate P2 and CBR for setting MREL requirements and CP on draft ITS on reporting decisions on MREL shall be submitted by **24th October 2020**.
- Comments to the CP on draft RTS on indirect subscription of MREL instruments within groups shall be submitted by **27nd October 2020**.

03/08/2020
Consultation paper on impracticability of contractual recognition of bail-in

1. Context

The bank recovery and resolution directive (BRRD) adopted in 2014 establish that Member States shall require institutions to include a contractual term by which the creditor or the party to the agreement or instrument creating a relevant liability recognises that that liability may be subject to the write down and conversion powers and agrees to be bound by any reduction of the principal or outstanding amount due, conversion or cancellation that is effected by the exercise of those powers by a resolution authority (RA). Furthermore, the BRRD requires EBA to regulate the situations where it is legally or impracticable to include in the contractual provisions governing a relevant liability the term for the recognition of the bail-in.

In this context, the EBA has published the **Consultation paper (CP) on draft Regulatory Technical Standards (RTS) and draft Implementing Technical Standards (ITS) on the impracticability of contractual recognition of write-down and conversion powers and related notifications** with the aim to promote the effective application of resolution powers to banks and banking groups and to foster convergence of practices between relevant authorities and institutions across the EU. In particular, the draft RTS define, among others, the conditions under which it would be legally or otherwise impracticable for an institution to include the contractual term for the recognition of the bail-in. For its part, the draft ITS specify uniform formats and templates for the notification to RAs of contracts meeting the conditions of impracticability defined in the draft RTS

2. Main points

- **Conditions of impracticability**. This draft RTS sets out five conditions of impracticability to include the term for contractual recognition of the powers to write-down or covert relevant capital instruments. These conditions are met when:
  - The inclusion of the contractual term would be in breach of the law of the third country governing the liability.
  - The inclusion of the contractual term would be contrary to an explicit and binding instruction from a relevant third country authority of the third country the law of which governs the liability.
  - The liability arises out of instruments or agreements concluded in accordance with and governed by internationally standardised terms or protocols which the institution is unable to amend.
  - The liability is governed by contractual terms to which the institution is bound pursuant to its membership of, or participation in, a non-Union body, including financial market infrastructures, and which the institution is in practice unable to amend.
  - The liability is owed either to a commercial or trade creditor and relates to goods or services that, while not critical, are used for daily operational functioning and where the institution or is in practice unable to amend the terms of the agreement concluded on standard terms.
- **Conditions for the RA to require inclusion**. The draft RTS specify the conditions for the RA to require the inclusion of the contractual term if it disagrees with the institution's determination of impracticability:
  - The RA disagrees with the institution's determination based on the conditions of impracticability notified.
  - The assessment of the criteria that the RA should take into account when considering the need to ensure resolvability. This only applies if none of the conditions of impracticability notified are met.
  - Thresholds above which incorporation is mandatory are defined, while below the thresholds the RA has flexibility to require or refrain from requiring the inclusion.
- **Timeframe for the RA to require inclusion**. The timeframe for the RA to require the inclusion of a contractual term is set at 3 months, starting from the moment the application is considered complete. This timeframe can be extended, in exceptional circumstances, by the RA of another 3 months.
- **Formats and templates for the notification**. The draft ITS defines the data required in a notification and the definition of these data points. Furthermore, it requires institutions making the notification to distinguish between contracts creating new liabilities and contracts amending existing liabilities and proposes the possibility to notify categories of liabilities that meet conditions of impracticability

3. Next steps

- Comments on this consultation can be submitted until **October 24th 2020.**

28/09/2020
Autumn 2020 EU-wide transparency exercise

1. Context

Since 2011, the EBA has been conducting transparency exercises at the EU-wide level on an annual basis. The transparency exercise is part of the EBA's ongoing efforts to foster transparency and market discipline in the EU financial market, and complements banks' own Pillar 3 disclosures, as laid down in Capital Requirements Directive (CRD). In 2020, following the postponement of the EU-wide stress test exercise, the EBA decided to release two Transparency exercises, one in late Spring and one in late Autumn, with the aim to inform the public on the conditions of the EU banking sector at the start of the COVID-19 crisis and the impact of the crisis in the first half of 2020. In June, the EBA published the Spring 2020 EU-wide transparency exercise with the aim of providing market participants with updated information on banks' exposures and asset quality as of 31 December 2019, prior to the start of the crisis.

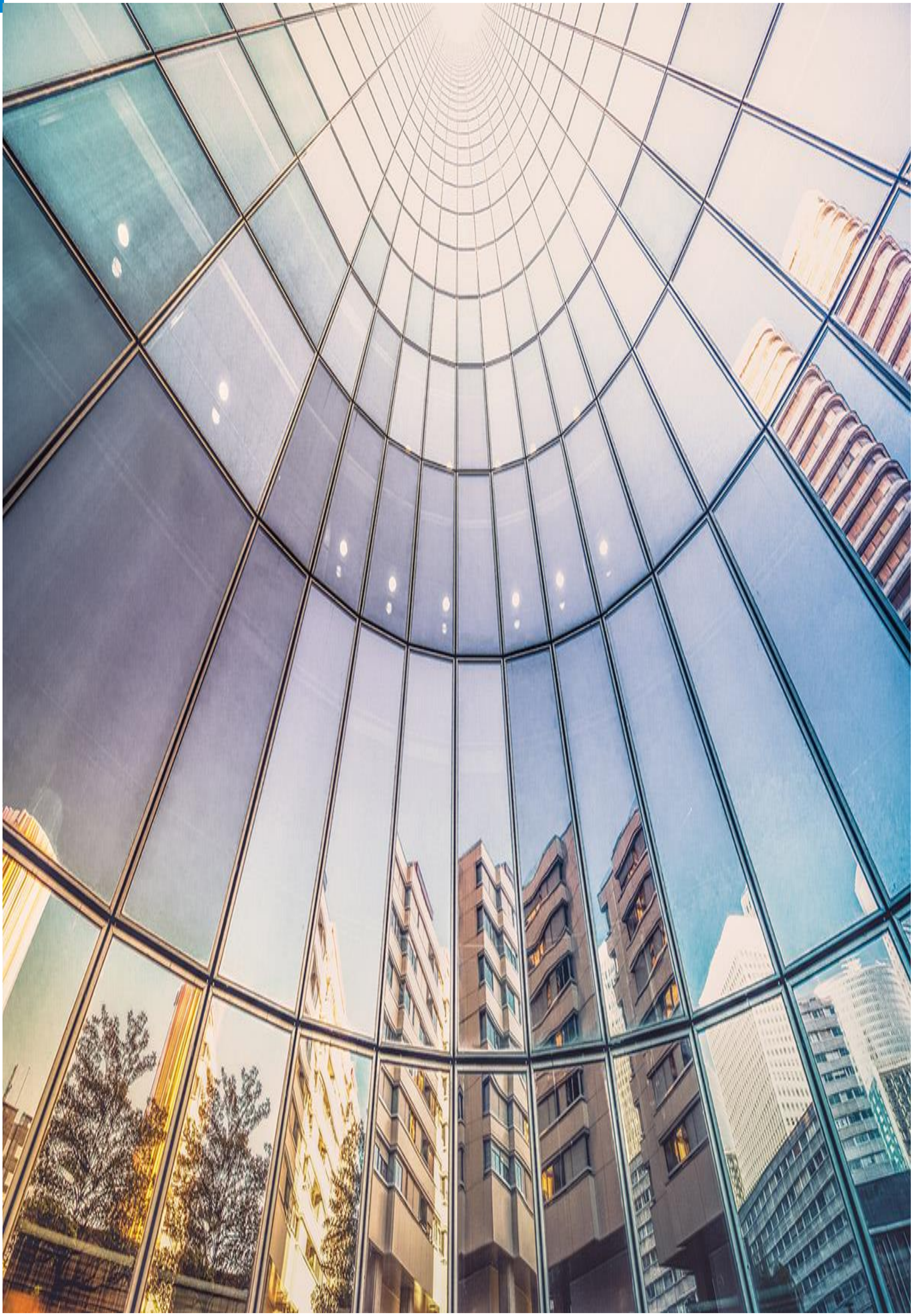
In this context, the EBA has launched the **7th annual EU-wide transparency exercise**, with the objective of providing market participants with updated information on the financial conditions of EU banks as of June 2020, thus assessing the preliminary impact of the COVID-19 crisis on the sector.

2. Main points

- **General aspects**. The EBA will release about one million data points, on average more than 7,000 data points for about 130 participating banks from 27 countries, including the United Kingdom. The data will cover banks' capital positions, financial assets, financial liabilities, risk exposure amounts, sovereign exposures and asset quality. The exercise will also include data on loans and advances subject to legislative and non-legislative moratoria, following the EBA Guidelines on COVID-19 measures reporting and disclosure.

3. Next steps

- The EBA expects to publish the results of this exercise at the **beginning of December**, along with the Risk Assessment Report.



BANCO DE ESPAÑA
Eurosistema

07/07/2020
Proyecto de Circular sobre normas de información financiera y modelos EEFF

1. Context

In June 2020, given the obligation of payment institutions (PIs) and electronic money institutions (EMIs) to report separately the activities of providing payment services or issuing electronic money, the activities of providing other closely related operational or ancillary services and the other economic activities performed, and taking as a reference the current accounting regulations of credit institutions on public and private financial reporting standards and model financial statements, a simplified regime of public and private financial statement requirements is established.

In this context, the BoS has published the **Draft Circular to payment institutions and electronic money institutions, on public and private financial reporting standards and model financial statements**, with the aim of establishing new specific regulations on the accounting regime to be prepared by these institutions, ceasing to apply the generic accounting standard. The differences in the nature, scale and complexity of the activities of PIs and EMIs with respect to credit institutions result in a simplified regime of public and private reporting requirements, including new models designed to capture the specific activity of these institutions.

2. Main points

- **General Provisions**. The circular shall apply, among others, to payment institutions, electronic money institutions, some institutions providing payment services (if these meet certain requirements), or hybrid credit institutions.
- **Public financial information**.
  - Content of public financial information. The PIs and EMIs must publish the documents (individual annual accounts, consolidated annual accounts, management report and audit report) and general requirements regarding the content of the individual and consolidated annual accounts, that give a true and fair view of the wealth, financial position, results and cash flows of the entity or the group. Regardless of their obligations to prepare annual accounts, entities must periodically publish the individual and consolidated public financial statements stipulated in this circular, which include among other the balance sheet, profit and loss accounts, recognised income and expense account, total changes in equity, etc.
  - Criteria for recognition, assessment, layout and information to be included in the financial report. Contains a reference to Circular 4/2017 of November 27th , where the annual accounts and other public financial statements must comply with the characteristics and criteria of recognition, valuation, layout and information to be included in the financial report. In addition, specific reporting requirements are stablished to include in the financial report of the annual accounts of activities for the provision of payment services or the issuance of electronic money, activities for the provision of other closely related operational or ancillary services and other economic activities carried out.
- **Private financial information**.
  - Processing criteria. Entities will prepare the reserved, individual and consolidated financial statements following the specifications included in this title, regardless of whether the accounting criteria of this circular apply or directly the EU-IFRSs.
  - Restricted statements to be submitted to the Bank of Spain. Entities shall submit to the BoS the specifications of the restricted statements in terms of models, breakdowns, frequency and time of submission.
- **Internal accounting procedures and management control**. Entities must comply with the requirements of internal accounting development, management control and registrations in accordance with Circular 4/2017 of November 27.
- **Presentation of financial information to the Bank of Spain**. Entities must send the annual accounts, the management report and the audit report, as well as the public and reserved statements in accordance with Circular 4/2017 of November 27.

3. Next steps

- The Circular will enter into force on **January 1st 2021.**

BANCO DE ESPAÑA
Eurosistema

07/07/2020
Consulta pública previa del proyecto de circular sobre información reservada en materia de conducta

1. Context

The BoS is entitled to request information on conduct, transparency and customer protection from all supervised institutions. In particular, natural or legal persons subject to the supervision of the BoS must submit, in the form and at the intervals required by the BoS, the statements and information it considers necessary to fulfil the function of supervising the rules of conduct, transparency and customer protection required of such entities. These statements and information may be of a public or confidential nature, as established by the BoS.

In this context, the BoS has published the preliminary public consultation on the draft circular on confidential conduct of business information which responds to the need for a comprehensive and standardised conduct of business information framework with a greater breakdown of the information available from institutions, in order to ensure the proper exercise of the institutions' supervisory activity regarding the rules of conduct, transparency and protection of customers required of institutions by the BoS.

2. Main points

- **Scope of application**. The new circular will apply to credit institutions, financial credit establishments, electronic money institutions, payment institutions, account information service providers, holders of foreign currency purchase and sale establishments, real estate lenders, real estate credit intermediaries and foreign branches operating in Spain of the aforementioned institutions.
- **Behavioural information**. The purpose of the circular is to determine the information that the supervised institutions have to prepare on conduct matters, which includes both the model statements reserved, for which their content is defined and the periodicity with which they should be sent to the BoS, and the information that should be available to the BoS. The information refers to financial activity with individuals (residents and non-residents) and micro-enterprises carried out in Spain by the entities included in the scope of the circular.
- **Behavioural statements**. This draft circular aims to request a series of behavioral statements, structured in three different areas:
    - Types of banking products and services, including payment services, marketed by the institutions
    - Source of income from interest and commissions.
    - Complaints filed with the entity.
    - The circular will also include the need for institutions to have a complaints register available to the BoS with a predefined content. In application of the principle of proportionality, the circular recognises a simplified regime of information requirements depending on the type of institution, its size and the type of customer it serves.

3. Next steps

- Comments on this preliminary public consultation can be submitted until **17 July 2020.**

01/07/2020

- **Dodd-Frank Act Stress Test 2020: Supervisory Stress Test Results**
- **Assessment of Bank Capital during the Recent Coronavirus Event**

1. Context

The Fed conducts supervisory stress tests to effectively assess whether firms have sufficient capital to continue operating and lending to households and businesses, even during times of economic and financial market stress. In particular, the Fed's stress testing program examines large Bank Holding Companies (BHCs) and US Intermediate Holding Companies (IHCs) of foreign banks (together, the firms). Furthermore, on October 10th, 2019, the Board (Fed, FDIC and OCC) finalized a rule to amend its prudential standards to exempt firms with total consolidated assets of less than $100 bn from the supervisory stress test and to subject certain firms with total consolidated assets between $100 bn and $250 bn to the supervisory stress test requirements on a two-year cycle.

In this context, the Fed has published the **results for the Dodd-Frank Act Stress Test 2020** (DFAST 2020), in which 33 firms have participated, 18 firms subject to annual supervisory stress test requirements and 15 firms subject to the two-year supervisory stress test cycle. In conducting its supervisory stress test, the Fed calculates its projections of each firm's balance sheet, risk-weighted assets (RWAs), net income, and resulting regulatory capital ratios under the severely adverse scenarios. For DFAST 2020, key components of stress test projections, such as losses and revenue, are broadly similar to those of prior years' exercises. However, the Fed has amended its stress testing requirements to remove the adverse scenario, in accordance with changes to the Dodd-Frank Act. The results of the DFAST 2020 suggest that, in the aggregate, the firms subject to the supervisory stress test would experience substantial losses under the severely adverse scenario but could continue lending to businesses and households, due to the substantial buildup of capital since the financial crisis.

In addition to its normal stress test, the Fed conducted a **sensitivity analysis to assess the resiliency of large banks** under three hypothetical recessions, or downside scenarios, which could result from the coronavirus event. The scenarios included a V-shaped recession and recovery; a slower, U-shaped recession and recovery; and a W-shaped, double-dip recession.

2. Main points

Dodd-Frank Act Stress Test 2020: Supervisory Stress Test Results

- **Severely adverse scenario**. The severely adverse scenario is characterized by a severe global recession accompanied by a period of heightened stress in commercial real estate and corporate debt markets:
    - The aggregate CET1 capital ratio would fall from an actual 12% in the Q4 2019 to its minimum of 9.9%, before rising to 10.3% at the end of nine quarters. The declines in capital ratios, both in the aggregate and for individual firms, are not comparable to the aggregate ratio decline disclosed last year because this year's ratios do not include the effect of common dividend distributions.
    - Aggregate losses at the 33 firms are projected to be $552 billion. For the 18 firms for which stress test results were disclosed both last year and this year, total losses under the severely adverse scenario are $433 billion in DFAST 2020, compared to $410 billion for the same 18 firms in DFAST 2019.

Assessment of Bank Capital during the Recent Coronavirus Event

- **Sensitivity analysis**. To assess the resiliency of large banks in an environment of high uncertainty, the Fed considered three alternative downside scenarios beyond the severely adverse scenario published in February 2020. The alternative downside scenarios were designed in early April and span the wide range of projections made at that time by professional forecasters for key macroeconomic indicators, such as the unemployment rate and GDP. The alternative downside scenarios also include different paths for the yield on 10-year Treasuries. The three scenarios are:
    - A rapid V-shaped recovery that regains much of the output and employment lost by the end of this year.
    - A slower, more U-shaped recovery in which only a small share of lost output and employment is regained in 2020.
    - A W-shaped double dip recession with a short-lived recovery followed by a severe drop in activity later this year due to a second COVID event.

Under the V-shaped alternative downside scenario, firms remain well above their regulatory minimum ratios with post-stress capital at a similar level as under the February 2020 scenario. Under the U-shaped and W-shaped alternative downside scenarios, several firms would approach minimum capital ratios. As a result of their strong current capital levels, the large majority of banks remain sufficiently capitalized over the entirety of the projection horizon in all scenarios.

3. Next steps

- In light of these results, the Fed will take **several actions** following its stress tests to ensure large banks remain resilient. In particular, the Fed will apply for the third quarter of 2020 and may be extended by the Fed quarter-by-quarter, as the economic situation continues to evolve:
  - Suspend share repurchases.
  - Cap the growth of dividends and impose a limit that does not exceed recent income.
  - Require banks to re-assess their capital needs and resubmit their capital plans later this year.
  - Conduct additional stress analyses later this year as data from banks become available and economic conditions evolve.

21/08/2020
Supervisory Scenarios for the Resubmission of Capital Plans in the Fourth Quarter of 2020

1. Context

During the first half of 2020 the Fed released the results of its 2020 stress tests and an additional sensitivity analysis conducted to explore vulnerabilities of banks to the COVID-19 outbreak and response. While that analysis indicated that all large banks were sufficiently capitalized, the Fed took actions to preserve capital at banks in light of the heightened uncertainty associated with the event. Among those actions, the Fed required banks to re-assess their capital needs and resubmit their capital plans. The Fed further stated that it would conduct additional stress analyses later in the year to consider incoming data from banks and evolving economic conditions.

In this context, the Fed has published the **Supervisory Scenarios for the Resubmission of Capital Plans in the Fourth Quarter of 2020** which describes three supervisory scenarios (baseline, severely adverse, and alternative severe) that the Fed will use to conduct its updated stress analyses and that each firm must use to estimate projected revenues, losses, reserves, and pro forma capital levels as part of its 2020 capital plan resubmission. This publication also details additional components (e.g. the global market shock component and the counterparty default component) that the largest and most complex firms must incorporate into the supervisory scenarios.

2. Main points

- **General aspects**. The scenarios start in the third quarter of 2020 and extend through the third quarter of 2023. Each scenario includes 28 variables which are the same as the set of variables provided in the February 2020 supervisory scenarios. The variables describing economic developments within the US include:
  - Six measures of economic activity and prices (e.g percent changes in real and nominal GDP).
  - Four aggregate measures of asset prices or financial conditions (e.g. indexes of house prices).
  - Six measures of interest rates (e.g. the rate on 3-month Treasury bills).
- **Baseline Scenario**. The baseline scenario for the US is a sharp increase in economic activity in the second half of 2020, followed by continued but more moderate improvement in economic conditions over the remainder of the 13-quarter stress test period. The real GDP growth rises sharply at an annualized rate of 14% in the second half of 2020. The unemployment rate declines throughout the scenario period, falling to almost 8.75% by the end of 2020 and to about 5.25% in the third quarter of 2023. Accompanying the economic recovery, short-term Treasury rates are assumed to remain near zero through the end of 2021, and then to gradually rise to slightly above 1% by the end of the stress test period. Equity prices rise 0.75% from the third to the fourth quarter of 2020 and about 3.5% per year in 2021 and 2022.
- **Severely Adverse Scenario**. The Severely Adverse Scenario is characterized by a severe decline in global economic activity accompanied by financial market distress. In this scenario the US unemployment rate climbs to a peak of 12.5% in the fourth quarter of 2021 and the real GDP falls 3.5% from the third quarter of 2020 to its trough in the fourth quarter of 2021. In line with the severe decline in real activity, the interest rate for 3-month Treasury bills remains near zero throughout the scenario period. Asset prices drop sharply in this scenario as equity prices decline more than 30% from the third to the fourth quarter of 2020, as the economy contracts sharply.
- **Alternative Severe Scenario**. This alternative scenario is consistent with a number of adverse events, including a series of second waves of the COVID-19 event that are not synchronized across different regions of the US and the rest of the world, and related structural changes in labor markets. Accordingly, the alternative severe scenario is characterized by a less-severe initial drop in global economic activity relative to the severely adverse scenario, and a subsequent recovery that is more sluggish. Under the alternative severe scenario, the US unemployment rate climbs to a peak of about 11% and the real GDP falls at an annualized rate of 9% in the fourth quarter of 2020. In line with the prolonged weakness in real activity, the interest rate for 3-month Treasury bills remains near zero throughout the scenario. Asset prices drop sharply in this scenario. Equity prices remain depressed longer than in the severely adverse scenario, bottoming out at the end, rather than the middle, of 2021.
- **Global Market Shock Component**. The global market shock is a set of hypothetical shocks to a large set of risk factors reflecting general market distress and heightened uncertainty. Firms with significant trading activity must consider the global market shock as part of the supervisory severely adverse and alternative severe scenarios, and recognize associated losses in the first quarter of the planning period.
- **Counterparty Default Component**. Firms with substantial trading or custodial operations will be required to incorporate a counterparty default scenario component into their supervisory severely adverse and alternative severe stress scenarios for the resubmission of capital plans in the fourth quarter of 2020. The counterparty default scenario component involves the instantaneous and unexpected default of the firm's largest counterparty.

30/09/2020

- **Final Rule on Real Estate Appraisals**
- **Final Rule on the Treatment of Certain Emergency Facilities in the Regulatory Capital Rule and the Liquidity Coverage Ratio Rule**

1. Context

In March 2020, the Board of Governors, with approval of the Secretary of the Treasury, authorized the Federal Reserve Bank of Boston (FRBB) to establish the Money Market Mutual Fund Liquidity Facility (MMLF) to prevent the disruption in the money markets from destabilizing the financial system. One month later on April 2020, the two institutions authorized each of the Federal Reserve Banks to extend credit under the Paycheck Protection Program Liquidity Facility (PPPLF) providing liquidity to small business lenders and the broader credit markets, and helping stabilize the financial system. To facilitate use of the MMLF and PPPLF, the Fed, FDIC and OCC (the Agencies) adopted interim final rules to allow banking organizations neutralize the regulatory capital effects of purchasing assets under the MMLF program and loans pledged to the PPPLF.

In this context, the Fed, FDIC and OCC have published the **Final Rule on Real Estate Appraisals** that temporarily defers appraisal and evaluation requirements for up to 120 days after the closing of certain residential and commercial real estate transactions. In addition, the agencies have also published **Final Rule on the Treatment of Certain Emergency Facilities in the Regulatory Capital Rule and the Liquidity Coverage Ratio (LCR) Rule** that neutralizes, due to the lack of credit and market risk, the regulatory capital and liquidity effects for banks that participate in certain Fed liquidity facilities.

2. Main points

Final Rule on Real Estate Appraisals

- **Temporary deferral**. The final rule adopts the deferral of the requirement to obtain an appraisal or evaluation for up to 120 days following the closing of certain residential and commercial real estate transactions, excluding transactions for acquisition, development, and construction of real estate. Regulated institutions should make best efforts to obtain a credible estimate of the value of real property collateral before closing the loan and otherwise underwrite loans consistent with the principles in the Standards for Safety and Soundness and Real Estate Lending Standards.

Final Rule on the Treatment of Certain Emergency Facilities in the Regulatory Capital Rule and the Liquidity Coverage Ratio Rule

- **Revisions to the capital and LCR rules**. A banking organization may continue to exclude assets acquired as part of the MMLF and PPP covered loans pledged under the PPPLF from its total leverage exposure, average total consolidated assets, advanced approaches total risk-weighted assets, and standardized total risk-weighted assets, as applicable. Further a banking organization must continue to apply a zero percent risk weight to all PPP covered loans that are not pledged to the PPPLF. In addition, a banking organization subject to the LCR rule is required to continue excluding from its total net cash outflow amount outflow amounts associated with advances from the MMLF and PPPLF and inflow amounts associated with collateral securing the advances.

3. Next steps

- The Final Rule on Real Estate Appraisals **is effective upon publication in the Federal Register** and will expire on **December 31, 2020**.
- The Final Rule on Final Rule on the Treatment of Certain Emergency Facilities will be effective **60 days** after the date of publication in the Federal Register.

01/07/2020

Final Rule on prohibitions and restrictions on proprietary trading and certain interests in, and relationships with, hedge funds and private equity funds

1. Context

On July 2010, the Dodd-Frank Act was enacted and in 2014 the Section 619 of the Dodd-Frank Act added a new section 13 to the Bank Holding Company Act of 1956 (BHC Act), also known as the Volcker Rule, that generally prohibits any banking entity from engaging in proprietary trading or from acquiring or retaining an ownership interest in, sponsoring, or having certain relationships with a hedge fund or private equity fund (covered fund), subject to certain exemptions.

In this context, and after the publication of the proposed rule on February 2020, the Fed, the OCC, the FDIC, the SEC and the CFT (the agencies) have published a **Final Rule on revisions to prohibitions and restrictions on proprietary trading and certain interests in, and relationships with, hedge funds and private equity funds**, which is intended to improve and streamline the covered fund provisions and provide clarity to banking entities so that they can offer financial services and engage in other permissible activities in a manner that is consistent with the requirements of the Volcker Rule.

The agencies received comments on the proposed rule from a diverse set of commenters (e.g. banking entities, financial services industry trade groups) and finally they have adopted many of the initially proposed changes to the implementing regulations, with certain targeted adjustments due to the comments received by the stakeholders.

2. Main points

- **Qualifying foreign excluded funds**. This Final Rule exempts the activities of certain funds that are organized outside of the USA and offered to foreign investors from the restrictions of the implementing regulations.
- **Modifications to existing covered fund exclusions**. This Final Rule makes modifications to several existing exclusions from the covered fund provisions, to provide clarity and simplify compliance with the requirements of the implementing regulations:
    - The Final Rule revises certain restrictions in the foreign public funds exclusion to more closely align the provision with the exclusion for similarly-situated US registered investment companies.
    - The Final Rule permits loan securitizations excluded from the rule to hold a small amount of non-loan assets.
    - The Final Rule revises the exclusion for small business investment companies to account for the life cycle of those companies and clarify the scope of the exclusion for public welfare investments.
- **Additional covered fund exclusions**. This Final Rule adds several new exclusions from the covered fund provisions to address the potential over-breadth of the covered fund definition and related requirements.
    - The Final Rule permits banking entities to invest in and have certain relationships with credit funds that extend the type of credit that a banking entity may provide directly.
    - The Final Rule establishes an exclusion from the definition of covered fund for venture capital funds.
    - The Final Rule excludes from the covered fund definition wealth management vehicles that manage the investment portfolio of a family.
    - The Final Rule excludes from the definition of covered fund an entity created and used to facilitate a customer's exposures to a transaction, investment strategy, or other service.
- **Limitations on relationships with a covered fund**. This Final Rule permits a banking entity to engage in a limited set of covered transactions with a covered fund, the banking entity sponsors or advises or with which the banking entity has certain other relationships.
- **Ownership interest**. This Final Rule clarifies certain aspects of the definition of ownership interest and provide clarity about the types of credit rights that would be considered within the scope of the definition of ownership interest.
- **Parallel investments**. This Final Rule adds new provisions that clarify that banking entities are not required to treat these investments made by banking entities alongside covered funds as an investment in the covered fund as long as certain conditions are met.
- **Technical amendments**. This Final Rule simplifies compliance efforts by tailoring the calculation of a banking entity's compliance and provide clarity to banking entities regarding their permissible investments made alongside covered funds.

3. Next steps

- The final rule will be effective on **October 1, 2020.**

21/10/2020
Global Transition Roadmap for LIBOR

1. Context

The FSB has identified that continued reliance of global financial markets on LIBOR poses clear risks to global financial stability. The LIBOR benchmarks are not guaranteed to continue to be available after the end of 2021 and therefore preparations should be underway to reduce reliance on these rates well ahead of that point. Use of LIBOR in the five LIBOR currencies (USD, GBP, EUR, JPY and CHF) is widespread internationally. As such, transition away from LIBOR by end-2021 requires significant commitment and sustained effort from both financial and non-financial institutions across many LIBOR and non-LIBOR jurisdictions.

In this context, the FSB has published the **Global Transition Roadmap (GTR) for LIBOR** which is intended to inform those with exposure to LIBOR benchmarks of some of the steps they should be taking now and over the remaining period to end-2021 to successfully mitigate these risks. These are considered prudent steps to take to ensure an orderly transition by end-2021 and are intended to supplement existing timelines/milestones from industry working groups and regulators. However, this does not constitute regulatory advice or affect any transition expectations set by individual regulators, which may require firms to move faster in some instances.

2. Main points

- **Firms should already have at a minimum (and if not, should promptly):**
    - Identified and assessed all existing LIBOR exposures.
    - Identified other dependencies on LIBOR outside of its use in financial contracts.
    - Agreed a project plan to transition in advance of the end of 2021 including clear governance arrangements.
    - Understood industry or regulator recommended best practices in relevant jurisdictions and built these into their plans.
    - Assessed what changes may be needed to supporting systems and processes in order to enable use of alternative reference rates in new and existing contracts.
    - Those who currently provide clients with products that reference LIBOR should have begun to implement a plan for communicating with end-users of LIBOR referencing products maturing beyond end-2021 to ensure they are aware of the transition and the steps being taken to support moving those products to alternative rates.
- **By the effective date of the International Swaps and Derivatives Association (ISDA) Fallbacks Protocol:**
    - Adhere to the ISDA protocol, subject to individual firms' usual governance procedures and negotiations with counterparties as necessary.
    - Providers of cleared and exchange-traded products linked to LIBOR should also ensure that these incorporate equivalent fallback provisions as appropriate.
- **By the end of 2020, at a minimum:**
    - Lenders should be in a position to offer non-LIBOR linked loan products to their customers.
- **By mid-2021, firms should:**
    - On the basis of a full assessment of their stock of legacy contracts, have determined which can be amended in advance of end-2021 and establish formalised plans to do so in cases where counterparties agree.
    - Where LIBOR linked exposure extends beyond end-2021, make contact with the other parties to discuss how existing contracts may be affected and what steps firms may need to take to prepare for use of alternative rates.
    - Have implemented the necessary system and process changes to enable transition to robust alternative rates.
    - Aim to use robust alternative reference rates to LIBOR in new contracts wherever possible.
    - Take steps to execute formalised plans, where realistic, to convert legacy LIBOR-linked contracts to alternative reference rates in advance of end-2021.
- **By end-2021, firms should:**
    - Be prepared for LIBOR to cease.
        - All new business should either **be conducted in alternative rates or be capable of switching at limited notice**.
        - For any legacy contracts for which **it has not been possible to make these amendments**, the implications of cessation or lack of representativeness should have been considered and discussed between the parties, and steps taken to prepare for this outcome as needed.
        - All **business critical systems and processes** should either be conducted without reliance on LIBOR, or be capable of being changed to run on this basis at limited notice.

16/11/2020
2020 list of G-SIBs

1. Context

In November 2011 the FSB published an integrated set of policy measures to address the systemic and moral hazard risks associated with systemically important financial institutions (SIFIs). In that publication, the FSB identified an initial group of global systemically important banks (G-SIBs) which are updated annually. In addition, the BCBS published a revised version of its methodology, which is expected to be implemented by 2022.

In this context, the FSB has published the **2020 list of G-SIBs**, using end-2020 data and the assessment methodology designed by the BCBS. In parallel with these publications, the BCBS has released **additional information** regarding the assessment methodology used for the purpose of the list of G-SIBs, based on bank data at the end of 2019.

2. Main points

FSB - 2018 list of G-SIBs

- **Compared with the list of G-SIBs published in 2019, the number of banks identified as G-SIBs remains 30:**
  - Three banks have moved to a lower bucket: JP Morgan Chase has moved from bucket 4 to bucket 3, Goldman Sachs and Wells Fargo have moved from bucket 2 to bucket 1.
  - One bank has moved to a higher bucket: China Construction Bank has moved from bucket 1 to bucket 2.
- **The FSB applies the following requirements** to G-SIBs:
  - Higher capital buffer requirements.
  - The Total-Loss Absorbing Capacity (TLAC) requirements.
  - Resolvability requirements, which include group-wide resolution planning and regular resolvability assessments.
  - Higher supervisory expectations for risk management functions, data aggregation capabilities, risk governance and internal controls.

BCBS - Additional information

- The **BCBS has also published** the following information regarding the **assessment methodology** used for the purpose of the list of G-SIBs:
  - A list of the banks included in the assessment sample, and the links to the disclosures of those banks.
  - The denominators used to calculate the scores for sample banks.
  - The 12- high-level indicators for each bank in the sample used to calculate these denominators.
  - The cut-off score used to identify the G-SIBs and bucket thresholds with the purpose of calculating the specific higher loss absorbency requirements.

3. Next steps

- The FSB will update the list of G-SIBs in **November 2021**.

02/12/2020

Final Technical amendment on the capital treatment of securitisations of NPLs

1. Context

The current BCBS securitisation standard was designed and calibrated using a range of securitisation transactions, all of which involved performing assets, reflecting the predominance of such securitisations in the market. Recent observations on securitisations in which the securitised portfolio consists mostly of non-performing loans (NPLs) have since shed light on potential mis-calibration of the risk weights applicable to these transactions under the Basel III securitisation framework.

In this context, the BCBS has published a **technical amendment on the capital treatment of securitisations of NPLs** to implement certain modifications, without changing any of the existing rules for securitisations of performing assets. The BCBS is of the view that securitisations of NPLs are subject to different risk drivers compared to securitisations of performing assets, which points to a need for a specific treatment to reflect these differences in a risk-sensitive and conservative way.

2. Main points

- **NPL securitisations definition**. This document includes the establishment of a standardised definition of NPL securitisations as securitisation transactions where there is a percentage of at least 90% of defaulted assets in the portfolio at inception and at a later time where assets are added to or removed from the underlying pool due to replenishment, restructuring or any other relevant reason.
  - Re-securitisations are expressly excluded from this definition of NPL securitisations.
  - This definition is a minimum standard, and national supervisors should be able to implement stricter criteria, in particular with the prevailing objective of preventing regulatory arbitrage.
- **SEC-IRBA**. The amendment stablishes a ban on the use of IRB Approach where the bank uses the foundation approach to calculate the K_{IRB}.
- **Risk weight**. The document includes:
  - The introduction of a 100% risk weight floor for exposures to securitisations of NPLs that are risk weighted under the SEC-IRBA or the standardised approach (SEC-SA).
  - For the senior tranches of securitisations of NPLs where the non-refundable purchase price discount is equal to, or greater than, 50% of the securitised portfolio, the risk weight under SEC-IRBA or SEC-SA is 100%.

  All other provisions of the current securitisation standard, including the use of external ratings-based approach (SEC-ERBA) and the possibility of capping the capital requirement for exposures from the same transaction, will also apply to securitisations of NPLs.
- **Securitisation framework**. In conjunction with the foundation IRB parameters ban and the 100% risk weight floor, the current provisions of the securitisation framework continue to apply to all other exposures to NPL securitisations (i.e. senior tranches of non-qualifying NPL securitisations, and mezzanine and junior tranches of all NPL securitisations).
- **Capital requirements**. Those banks that are allowed, under the current rules, to apply a maximum capital requirement for their securitisation exposures in the same transaction can continue to apply the same maximum capital requirement as applicable under current rules. This applies to originator and sponsor banks as well as investor banks using the SEC-IRBA.

3. Next steps

- This amendment to the securitisation standard will come into effect by no later than **1 January 2023**.

11/12/2020

- **BCBS – Basel III Monitoring Report**
- **EBA Report on Basel III Monitoring**

1. Context

In 2016, the BCBS published an updated standard for the regulatory capital treatment of securitisation exposures for simple, transparent and comparable (STC) securitisations. In the same year, the standard on minimum capital requirements for market risk (FRTB) was also published, and it has been recently revised in January 2019. Furthermore, in December 2017, the BCBS published the final set of revisions to the Basel III framework addressing undue variability in risk-weighted assets (RWAs) calculations and amending, credit risk calculation methods (SA and IRB), credit valuation adjustment (CVA), calculation method for operational risk (SMA) which replaces the previous ones, and establishes an output floor. It also modifies the exposure measure of the leverage ratio (LR) and introduces an additional buffer on this ratio for global systemically important banks (G-SIBs).

In this context, the BCBS has published the results of its latest **Basel III monitoring report** which sets out the impact of the finalisation of the Basel III reforms, and it also reflects the finalisation of the market risk framework published in January 2019. In parallel with this report, the EBA has issued a **Report on its Basel III monitoring exercise** which includes a preliminary assessment of the impact of the Basel reform package on EU banks, assuming its full implementation.

2. Main points

BCBS - Basel III Monitoring Report

- **Sample of banks**: 173 banks, including:
  - Group 1: 105 internationally active banks that have Tier 1 capital of more than €3 billion; and where 30 institutions have been designated as G-SIBs.
  - Group 2: 68 banks that have Tier 1 capital of less than €3 billion or are not internationally active (i.e. all other banks).
- **Reference date**: the results are based on data as of 31 December 19. Therefore, the impact of COVID-19 in not taken into account.
- **General aspects**:
  - This Report does not take into account any transitional arrangements (i.e. phase-in of deductions and grandfathering).
  - This Report does not reflect any additional capital requirements under Pillar 2 of the Basel II framework, any higher loss absorbency requirements for domestic systemically important banks, nor does it reflect any countercyclical capital buffer requirements.
  - Prior to Covid-19, large internationally active banks made further progress towards meeting fully phased-in final Basel III capital requirements and their liquidity ratios improved compared with end-June 2019.

	30 June 2019			31 December 2019		
	Group 1	G-SIBs	Group 2	Group 1	G-SIBs	Group 2
Increase of the mínimum requirement of Tier 1 MRC[1]	3.0%	3.4%	8.5%	2.1%	2.2%	8.4%
CET1 ratio (%)	12.2%	12.1%	13.0%	12.5%	12.4%	13.2%
Target capital shortfalls[2] (MM€)	24.7	22.8	3.8	10.7	10.7	2.9
TLAC shortfalls (MM€)	78.0	78.0	N/A	1.9	1.9	N/A

(1) Minimum required capital
(2) Tier 1 + Tier 2

2. Main points (cont.)

EBA Report on Basel III Monitoring

- **Sample of banks**: 106 banks form 18 European Economic Area (EEA) countries, including:
  - Group 1: 40 banks internationally active banks that have Tier 1 capital of more than €3 billion, of which 8 are G-SIIs.
  - Group 2: 66 banks that have Tier 1 capital of less than €3 billion or are not internationally active (i.e. all other banks).
- **Reference date**: the results are based on data as of 31 December 2019. Therefore, the impact of COVID-19 in not taken into account.
- **General aspects**:
  - This Report assesses the impact on EU banks of the final revisions of credit risk, operational risk, and leverage ratio frameworks, as well as of the introduction of the aggregate output floor. It also quantifies the impact of the new standards for market risk (FRTB) and credit valuation adjustments (CVA).
  - The impact is assessed on the assumption of the full implementation of the Basel reforms (i.e. 2028).
  - The Report presents the impact of the reforms in terms of changes in Tier 1 MRC, comparing the fully implemented revised Basel III requirements with the fully phased-in CRR / CRD IV requirements.

Change in total T1 MRC (weighted average in %) Reduced estimation bias

Group	Credit Risk				Market risk	CVA	Op. Risk	Output floor	Total risk-based	Revised LR	Total
	SA	IRB	Securit.	CCPs							
All banks	2.2	2.4	0.4	0.0	0.6	3.0	3.8	6.2	18.3	-2.8	15.4
1	1.9	2.2	0.4	0.0	0.7	3.2	4.1	7.0	19.1	-2.9	16.2
G-SIB	2.1	3.5	0.6	0.0	0.5	3.1	6.2	6.8	22.6	0.4	23.0
2	4.4	3.3	0.0	0.0	0.4	1.5	2.3	1.9	13.8	-2.7	11.1

Change in total T1 MRC (weighted average in %) Conservative estimation

Group	Credit Risk				Market risk	CVA	Op. risk	Output floor	Total risk-based	Revised LR	Total
	SA	IRB	Securit.	CCPs							
All banks	2.2	2.4	0.4	0.0	2.3	3.0	3.8	6.0	19.7	-3.1	16.7
1	1.9	2.2	0.4	0.0	2.6	3.2	4.1	6.7	20.8	-3.1	17.7
G-SIB	2.1	3.5	0.6	0.0	4.0	3.1	6.2	6.3	25.7	-0.1	25.6
2	4.4	3.3	0.0	0.0	0.4	1.5	2.3	1.9	13.8	-2.7	11.1

02/12/2020
2021-2023 Multi-Annual-Programme including Annual Work Programme 2021

1. Context

The SRB has published the **Multi-Annual-Programme 2021-2023(MAP) including Annual Work Programme 2021** where it sets out a roadmap with a clear focus on achieving resolvability and a robust bank resolution of the banks under its remit over the next three years, as well as further operationalistation of the Single Resolution Fund (SRF). The objectives set out in this roadmap take into account the current economic, political and regulatory context characterised by the COVID-19 pandemic.

2. Main points

- **Multi-Annual Programme 2021-2023**. The SRB will focus on:
  - Resolvability of SRB banks and Less significant Institutions (LSIs). The objectives set for 2021-2023 in this respect are:
    - **Implement SRB Expectation for Banks (EfB)** as the key document of reference for banks to build the capabilities to become resolvable, by 2023 at latest.
    - **Update and operationalise the resolution plans**.
    - **Conduct resolvability assessments** that will feed into a central "heat-map", aimed to track individual banks' progress and benchmark it across SRB banks.
    - **Gradually develop the design and perform on-site inspections** (OSI).
    - **Enhance oversight function of LSI** which are under the National Resolution Authority (NRAs') direct remit, with the SRB performing oversight functions.
  - Robust Resolution framework. The key areas of development for 2021-2023 are: i) to refine the 2020 MREL policy to complete the implementation of the Banking Package's new rules; ii) extend the SRB methodology and iii) stablish policy work on financial continuity framework.
  - Preparing and carrying out effective crisis management. The priorities for 2021-2023 are: i) operationalise resolution tools other than bail-in; ii) refining data, procedures, documents and tools for crisis cases; iii) elaborate policy stances and operational procedures on impacts on business model or governance arrangements and iv) to test crisis preparedness by dry-run exercises.
  - Operationalising the SRF. The fund can be used to ensure the effective application of resolution tools. The main priorities related to this are: i) the monitoring of the evolution of covered deposits; ii) monitoring of the implementation of the 2021 investment plan and iii) analysing the optimal financing instruments for capital and/or liquidity support, covering any possible combination of resolution tools.
- **2021 Work Programme**. The SRB will focus on:
  - Resolvability of SRB banks and LSIs. The SRB will implement in 2021 the priorities in this area along the same priorities streams of the MAP, particularly the SRB will:
    - **Apply its revised 12-months Resolution Planning Cycle** (RPC).
    - Develop a **stepwise approach** to be prepared for OSI.
    - Develop a first **set of guidelines** to NRAs when performing tasks for LSIs.
    - Benefit in 2021 from **harmonised horizontal criteria** aligned with the EfB and applicable MREL policy.
  - Fostering a robust Resolution framework. In 2021, the SRB will implement the MAP priorities by applying, in close cooperation with NRAs through the so-called Resolution Committee (CoRes), the necessary revisions to SRB policies. In addition, the SRB will continue to conduct systematic quality review of resolution plans based on its enhanced methodology developed in 2020.
  - Preparing and carrying out effective crisis management. In 2021, the work will continue on refining procedures, tools, templates and specific Information and Communication Technology (ICT) solutions to be used in crisis.
  - Operationalising the SRF. The SRF was established by the Single Resolution Mechanism Regulations (SRMR) and, where necessary, may be used to ensure the effective application of resolution tools. 2021 priorities will be divided into three broad areas: i) contributions; ii) investments; and iii) funding and financing.

EUROPEAN COMMISSION

16/12/2020
EU's Cybersecurity Strategy for the Digital Decade

1. Context

The EU has developed a coherent and holistic international cyber policy since its 2013 EU Cybersecurity strategy. In addition, in 2017 it was published the EU cyber diplomacy toolbox to further contribute to international security and stability in cyberspace. An increase of cyber-attacks during the COVID-19 crisis have shown how important it is to protect hospitals, research centres and other infrastructure. Therefore, strong action in the area is needed to future-proof the EU's economy and society.

In this context, the EC has published the **EU's Cybersecurity strategy for the Digital Decade** which aims to safeguard a global and open Internet, while at the same time offering safeguards, not only to ensure security but also to protect European values and the fundamental rights.

2. Main points

- **Resilience, technological sovereignty and leadership**. The EC will focus on:
    - Resilient infrastructure and critical services. The EC proposes to reform the rules on the security of Network and Information Systems (NIS) in order to increase the level of cyber resilience of critical public and private sectors.
    - Building a European Cyber Shield. The EC proposes to build a network of Security Operations Centers across the EU.
    - Securing the next generation of broadband mobile networks.
    - The internet of Secure Things. The EC will consider a comprehensive approach, including possible new horizontal rules to improve the cybersecurity of all connected products and associated services placed on the Internal Market.
    - The greater global Internet security. The EC will develop a contingency plan, supported by EU funding, for dealing with extreme scenarios affecting the integrity and availability of the global Domain Name System (DNS) root system.
    - A reinforced presence on the technology supply chain.
    - A Cyber-skilled EU workforce.
- **Building operational capacity to prevent, deter and respond**. The EC will focus on:
    - A Joint Cyber Unit to strengthen cooperation between EU bodies and Member State authorities responsible for preventing cyber-attacks.
    - The use of EU cyber diplomacy toolbox to prevent, tackle and discourage cyber-attacks.
    - Boosting cyber defence capabilities encouraging Member States to make full use of the Permanent Structured Cooperation.
- **Advancing a global and open cyberspace**. The EU must continue to work with third countries, international organisations as well as the multi-stakeholder community, to develop and implement a coherent and holistic international cyber policy. Therefore, the EU focus on:
    - EU leadership on standards, norms and frameworks in cyberspace.
    - Cooperation with partners and the multi-stakeholder community.
    - Strengthening global capacities to increase global resilience.

3. Next steps

- The EC is committed to implementing the new Cybersecurity Strategy in the **coming months**.

EUROPEAN COMMISSION

02/12/2020
Delegated Regulation on EU classification system for green investments

1. Context

The EC published in 2019 the European Green Deal, which sets out a series of climate and energy targets for 2030, and contains a commitment for Europe to become climate neutral by 2050. Furthermore, in 2020 the EC published the Taxonomy Regulation which provides uniform criteria for companies and investors to determine which economic activities can be considered environmentally sustainable. The Taxonomy creates a common language that investors can use everywhere when investing in projects and economic activities that have a substantial positive impact on the climate and the environment.

In this context, the EC has published the **Delegated Regulation on EU classification system for green investments** with the aim of establishing the technical screening criteria for determining the conditions under which an economic activity qualifies as contributing substantially to climate change mitigation or climate change adaptation and for determining whether that economic activity causes no significant harm to any of the other environmental objectives. In addition, the Regulation includes two annexes that develop the screening criteria for determining whether an economic activity meets climate objectives.

2. Main points

- **Conditions and climate criteria**. This Delegated Regulation contains the technical screening criteria for determining the conditions under which an economic activity qualifies to climate change mitigation. These criteria should ensure that the economic activity makes a positive impact on the EU's climate objective or reduces negative impact on this objective. In this regard, the EC outlines the criteria that should be taken into account within the main sectors with the greatest potential for achieving these climate objectives:
    - Agricultural sector. The technical screening criteria should reflect this role and take into account the long timeframes required for climate benefits to materialize, in particular for maximizing and maintaining the carbon sink potential of land.
    - Forest sector. Technical screening criteria for forest activities should be complemented, reviewed and where necessary revised by end of 202.
    - Manufacturing sector. The criteria for this sector should be specified both for manufacturing activities associated with the highest levels of greenhouse gas emissions and for manufacturing of low-carbon products and technologies.
    - Energy sector. The technical screening criteria for this sector should signal the decarbonisation path for the electricity or heat generation activities to ensure that the greenhouse gas emissions are reduced or avoided.
    - Building sector. The criteria should therefore be laid down for the construction of new buildings, for building renovation, installation of different energy efficiency equipment, on-site renewables, provision of energy services, and for the acquisition and ownership of buildings.
    - Information and communication sector. The criteria should be laid down for data processing and hosting activities that emit high volumes of greenhouse gas, and for data-driven solutions that enable reductions in greenhouse gas emissions in other sectors.
    - Research, development and innovation sector. The criteria for these activities should focus on the potential of processes and technologies for reducing greenhouse gas emissions.
    - Other economic activities. The criteria for determining whether an economic activity contributes substantially to climate change adaptation should be laid down for engineering and financial and insurance activities, that have the potential to facilitate climate change adaptation in other sectors. This criteria should aim at increasing the resilience of economic activities against climate risks.
- **Significant environmental harm**. The EC determines the technical screening criteria for determining whether an economic activity causes no significant harm to one or more of the environmental objectives:
    - Use and protection of water and marine resources. The criteria should aim at avoiding that activities are detrimental to the status of bodies of water or the status of marine waters.
    - Pollution prevention and control. The criteria should reflect sector specificities to address the relevant sources and types of pollution into air, water or land.
    - Protection and restoration of biodiversity and ecosystems. The criteria should be specified for all activities that can pose risks to the status or condition of habitats, species or ecosystems and should require that environmental impact assessments or appropriate assessments are undertaken and the conclusions achieved from such assessments are implemented.

3. Next steps

- This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the EU and it shall apply from **1 January 2022**.

EUROPEAN COMMISSION

27/11/2020
Proposal on Data Governance Act

1. Context

Over the last few years, digital technologies have transformed the economy and society, affecting all sectors of activity and daily life. Data is at the centre of this transformation: data-driven innovation will bring enormous benefits for citizens, for example through improved personalised medicine, new mobility, and its contribution to the European Green Deal, among others. In this sense, the EC described the vision of a common European data space, a Single Market for data in which data could be used irrespective of its physical location of storage in the Union in compliance with applicable law.

In this context, the EC has published the **Proposal on Data Governance Act** with the aim of foster the availability of data for use by increasing trust in data intermediaries and by strengthening data-sharing mechanisms across the EU. The aim of this proposal it is not to amend or remove the substantial rights on access and use of data, but to complement the Directive on open data and the re-use of public sector information.

2. Main points

- **Re-use of categories of protected data** held by public sector bodies. It applies to data held by public sector bodies which are protected on grounds of: i) commercial confidentiality; ii) statistical confidentiality; iii) protection of intellectual property rights of third parties; and iv) protection of personal data.
    - <u>Prohibition of exclusive arrangements</u>. An exclusive right to re-use data may be granted to the extent necessary for the provision of a service or a product in the general interest. Public sector bodies which are competent under national law to grant or refuse access for the re-use of data shall make publicly available the conditions for allowing such re-use of data.
    - <u>Conditions for re-use</u>. Public sector bodies may impose obligations to access and re-use the data within:
        - A **secure processing environment** provided and controlled by the public sector.
        - The **physical premises** in which the secure processing environment is located, if remote access cannot be allowed without jeopardising the rights and interests of third parties.
    - <u>Competent bodies</u>. Member States shall designate one or more competent bodies, which may be sectoral, to support the public sector bodies which grant access to the re-use of the categories of data.
    - <u>Single information point</u>. Member States shall ensure that relevant information concerning the conditions and fees that must be paid for re-use of data, is available through a single information point, which shall receive requests for the re-use of data and shall transmit them to the competent public sector bodies.
- **Requirements applicable to data sharing services**.
    - <u>Providers and conditions for providing data sharing services</u>. Any provider of data sharing services who intends to provide certain services described in a previous proposal shall submit a notification to the competent authority.
    - <u>Competent authorities</u>. Each Member State shall designate in its territory one or more authorities competent to carry out the tasks related to the notification framework and to monitor and supervise the requirements applicable to data sharing services. This authorities shall be legally distinct from any provider of data sharing services.
- **Data altruism**. Each competent authority designated shall keep a register of recognised data altruism organisations and shall monitoring compliance with the requirements that the data altruism organization shall meet. The competent authority shall monitor and supervise the register of data altruism organisations, and shall have the power to request information and require cessation in the event of a breach.
- **European data innovation board**. The EC shall establish a European Data Innovation Board ("the Board") in the form of an expert group. The board will assist the EC in facilitating cooperation between national competent authorities within the framework of this regulation and will advise about the prioritization of cross-sector standards to be used and developed for data use and cross-sector data sharing.

3. Next steps

- This Regulation shall enter into force on the **twentieth day** following that of its publication in the Official Journal of the EU and it shall apply from **12 months** after its entry into force.

EUROPEAN COMMISSION

23/10/2020
2021 Work Programme

1. Context

The EC has adopted the **2021 Work Programme** which is designed to make Europe healthier, fairer and more prosperous, while accelerating its long-term transformation into a greener economy, fit for the digital age. The work programme sees a shift from strategy to delivery across all six political priorities and it confirms the EC's resolve to lead the tween green and digital transition.

2. Main points

- **European Green Deal**. The EC's focus will be overhauling the relevant climate and energy legislation to align with the newly proposed target to reduce emissions by at least 55% by 2030, as compared to 1990 levels. This will cover wide-ranging policy areas, from renewables to energy efficiency first, energy performance of buildings, as well as land use, energy taxation, effort sharing and emissions trading.
- **Europe fit for the digital age**. The EC will put forward a roadmap of clearly defined 2030 digital targets. The actions to be taken will involve legislation covering the safety, liability, fundamental rights and data aspects of artificial intelligence and a Data Act to set the right conditions for better control and conditions for data sharing for citizens and businesses.
- **Economy that works for people**. To ensure that the health and economic crisis does not turn into a social crisis, the EC will put forward an ambitious action plan to implement fully the European Pillar of Social Rights, making sure that no one is left behind in Europe's recovery. The EC will search the best way to stability and competitiveness through a deeper Economic and Monetary Union, which will also ensure a stronger international role of the euro.
- **Stronger Europe in the world**. The EC will ensure that Europe plays its vital role in this fragile world, including by leading the global response to secure a safe and accessible vaccine for all. It will also be strengthened the EU's contribution to rules-based multilateralism and will propose a renewed partnership with Southern neighborhood and present a Communication on the Arctic to update EU policy towards a region particularly exposed to climate change.
- **Promoting our European way of life**. The EC will propose to build a stronger European Health Union, notably by strengthening the role of existing agencies and establishing a new agency for biomedical advanced research and development. It will also propose a number of measures on legal migration and will continue to strengthen the Security Union by tacking measures on tackling organized crime.
- **A new push for European democracy**. The European Democracy action plan to be adopted will be a stepping stone to improve the resilience of our democracies, address the threats of external interference in European elections and counter disinformation. To build a union of equality, the EC will present new strategies on rights of the child and for persons with disabilities, as well as a proposal to combat gender-based violence.

EUROPEAN CENTRAL BANK
EUROSYSTEM

03/12/2020
Guide on climate-related and environmental risks

1. Context

Following the adoption of the Paris Agreement on climate change and the UN 2030 Agenda for Sustainable Development in 2015, governments are making strides to transition to low-carbon and more circular economies on a global scale. In Europe, the European Green Deal sets out the objective of making Europe the first climate-neutral continent by 2050. In this sense, the financial sector is expected to play a key role and for the second year, the ECB has identified climate-related risks as a key risk driver on the SSM Risk Map for the euro area banking system.

In this context, the ECB has published the **ECB Guide on climate-related and environmental risks** which outlines the ECB's understanding of the safe and prudent management of climate-related and environmental risks (hereafter referred to as climate risks) under the current prudential framework, the expectations on how institutions should consider these risks when formulating and implementing their business strategy and governance and risks management frameworks, and the expectations on how institutions should become more transparent by enhancing their disclosure of information.

2. Main points

- **Scope of application and definitions**.
  - The expectations set out in this guide are to be used in the ECB's supervisory dialogue with significant institutions directly supervised. However, this guide has been developed jointly by the ECB and the national competent authorities (NCAs) and therefore, NCAs are recommended to apply in substance the expectations established in this guide in their supervision of less significant institutions (LSIs), proportionately to the risk profile and business model of the institution.
  - For the purposes of this guide, materiality should be considered in the light of the applicable CRD and CRR provisions. It is worth noting that the assessment of materiality is an institution-specific assessment, taking into account the specificities of the respective business model, operating environment and risk profile.
- **Characteristics of climate-related and environmental risks**. The magnitude and distribution of physical and transition risks depend on the level and timing of mitigation measures and whether the transition occurs in an orderly or disorderly fashion. Irrespective of this, some combination of physical and transition risks will, in all probability, materialise on the balance sheets of euro area institutions and the economic value of their exposures:
  - Interconnection between climate-related change and environmental risks may result in combined effects capable of potentially generating even greater impacts.
  - Assets that are directly or indirectly associated with the extraction, processing, combustion or use of fossil fuels, or which are not sufficiently energy efficient, may suddenly and significantly decrease in value or even become "stranded assets".
- **Supervisory expectations relating to business models and strategy**. Institutions are expected to identify, assess and monitor the current and forward-looking impact of climate-related and environmental factors on their business environment and to ensure the sustainability and resilience of their business model going forward. In general, institutions are expected to adopt granular approaches to mapping these impacts on their business environment. Depending on the type of climate-related and environmental impact, granular approaches may include "within-sector" differences, taking into account supply chain effects or using detailed geographic location data.
- **Supervisory expectations relating to governance and risk appetite**. Institutions are expected to embed climate risks in their governance and risk appetite frameworks, while adequately involving all relevant functions. Additionally, appropriate and regular reporting on these risks to the management body is expected to ensure proper management of these risks. The management body is expected to consider the knowledge, skills and experience of its members in the area of climate-related and environmental risk in its assessment of the collective suitability of such members.

2. Main points (cont.)

- **Supervisory expectations relating to risk management**. This guide provides detailed guidance on integrating climate risks into credit, operational, market and liquidity risk management, as well as into the ICAAP, including risk quantification by means of scenario analysis and stress testing.
  - Risk management framework. Institutions are expected to incorporate climate risks as drivers of established risk categories into their existing risk management framework, with a view to managing and monitoring these over a sufficiently long-term horizon, and to review their arrangements on a regular basis. Furthermore, institutions are expected to identify and quantify these risks within their overall process of ensuring capital adequacy.
  - Credit risk management. Institutions are expected to consider climate risks at all stages of the credit-granting process and to monitor the risks in their portfolios.
  - Operational risk management. Institutions are expected to consider how climate-related events could have an adverse impact on business continuity and the extent to which the nature of institutions' activities could increase compliance-related risks, such as liability, litigation and/or reputational risks, stemming from climate-related and environmental issues.
  - Market risk management. Institutions are encouraged to monitor on an ongoing basis the effect of climate-related and environmental factors on their current market risk positions and future investments, and to develop stress-testing scenarios that incorporate climate-related and environmental risks.
  - Scenario analysis and stress testing. Institutions with material climate risks are expected to evaluate the appropriateness of their stress testing, with a view to incorporating them into their baseline and adverse scenarios.
  - Liquidity risk management. Institutions are expected to assess whether material climate risks could cause net cash outflows or depletion of liquidity buffers and, if so, incorporate these factors into their liquidity risk management and liquidity buffer calibration.
  - Materiality assessment. Institutions are expected to comprehensively include climate-related and environmental risks in their assessment of materiality for all of their business areas in the short, medium and long-term under various scenarios.
- **Supervisory expectations relating to disclosures**. This guide establishes that for the purposes of their regulatory disclosures, institutions are expected to publish meaningful information and key metrics on climate risks that they deem to be material, as a minimum, in line with the European Commission's Guidelines on non-financial reporting: Supplement on reporting climate-related information.

3. Next steps

- This Guide is applicable since its **date of publication**.
- As part of the supervisory dialogue, **from early 2021**, significant institutions will be asked by Joint Supervisory Teams to inform the ECB of any existing divergences in their practices from the supervisory expectations described in this guide and to inform the ECB of arrangements aimed at progressively addressing these expectations

06/10/2020
2021 Work Programme

1. Context

The ESMA has published the **2021 Work Programme** setting out its priorities and areas of focus for the next 12 months in support of its mission to enhance investor protection and promote stable and orderly financial markets. For 2021, ESMA's planned activities will respond to the challenges faced by the EU, its capital markets and its citizens, including developing the retail investor base to support the Capital Markets Union (CMU), promoting sustainable finance and long-term oriented markets, dealing with the opportunities and risks posed by digitalisation, strengthening the EU's role in global capital markets and ensuring a proportionate approach to regulation.

2. Main points

- **Transversal themes**. During 2021, the ESMA will focus on:
  - CMU. ESMA considers the development of the CMU as one of its strategic priorities in order to finance the economy and ensure economic growth, job creation and to speed up the recovery. In this respect, ESMA is ready to provide its support to the CMU action plan, where appropriate and necessary.
  - ESG. Given the pervasiveness of ESG factors across different areas of legislation, building common approaches for incorporating ESG factors in NCAs' supervisory practices will be a priority for ESMA's work on supervisory convergence. To this effect ESMA will:
    - Produce a **roadmap for supervisory convergence in sustainable finance**, building on the sustainable finance strategy it published in 2020.
    - Have an important role, among others, in the implementation of the **Regulation on the establishment of a framework to facilitate sustainable investment** and amending taxonomy regulation. This includes in particular the support to the work for the preparation of the delegated acts and its role in the Platform on Sustainable Finance.
    - Assist the EC with new initiatives resulting from the **renewed sustainable finance strategy** in the context of the recovery, to be adopted by the EC by the end of the year.
  - FinTech. ESMA believes that technology can contribute to well-functioning financial markets and investor protection. ESMA will therefore continue its work on financial innovation by continuing its actions under the FinTech Action Plan and by contributing to the Digital Finance Package.
- **Key priorities**. During 2021, in addition to transversal themes implementing ESMA's new mandates, the key areas of focus under its activities of supervisory convergence, assessing risks, single rulebook and direct supervision will be:
  - Promoting supervisory convergence. Supervisory convergence priorities will be to build an EU common risk-based and outcome-focused supervisory culture. Areas of focus will include fund liquidity risk and liquidity management tools, retail investment products costs and performance, quality and usability of data, supervision of ESG reporting and ESG data usage, and the implementation of EMIR.
  - Assessing risks to investors, markets and financial stability. In the risk assessment area, ESMA will focus on integrating the new focus on financial innovation and ESG developments into their risk analysis. It will also focus on data for risk-based supervision, in particular in support of ESMA's new supervisory mandates, and to support policy and convergence work. Finally ESMA will continue to monitor the impact on markets of the COVID-19 pandemic and following the end of the UK's transition period, intervening when necessary in support of investor protection, orderly markets and financial stability.
  - Completing a single rulebook for EU financial markets. ESMA, as part of a programme of regular post-implementation reviews of laws and technical standards, will:
    - Contribute to the **legislative reviews of MiFID and AIFMD** and assess whether changes to the rulebook are needed to develop the CMU.
    - Enhance the **attractiveness of EU capital markets**.
    - **Promote sustainable finance** and proportionality.

    Following the review of EMIR and the changes introduced under EMIR Refit, review technical standards where necessary. Depending on market developments, these reviews may be in the area of clearing thresholds and the clearing obligation.
  - Directly supervising specific financial entities. Under its direct supervision activity, in 2021, ESMA will focus on third country central counterparty supervision as critical financial market infrastructures under EMIR 2.2. In addition, ESMA will prepare for new supervisory mandates regarding Benchmarks and Data Service Providers, as well as continuing direct supervision in the areas of Credit Rating Agencies, Trade Repositories and Securitisation Repositories.

17/12/220
Opinion on the 2020 review of Solvency II

1. Context

On January 2016, Solvency II Directive entered into application. Solvency II provides that certain areas of the Directive should be reviewed by the European Commission (EC) at the latest by 1 January 2021, namely: i) long-term guarantees measures and measures on equity risk; ii) methods, assumptions and standard parameters used when calculating the Solvency Capital Requirement standard formula; iii) Member States' rules and supervisory authorities' practices regarding the calculation of the Minimum Capital Requirement, and iv) group supervision and capital management within a group of insurance or reinsurance undertakings.

In this context, the EIOPA has submitted to the European Commission its **Opinion on the Solvency II 2020 Review**. The measures proposed aim at keeping the regime fit for purpose by introducing a balanced update of the regulatory framework, reflecting better the economic situation and completing the missing elements from the regulatory toolbox. From a prudential perspective, EIOPA is of the view that, overall, the Solvency II framework is working well and no fundamental changes are needed at this point in time but a number of adjustments are required to ensure that the regulatory framework continues as a well-functioning risk-based regime.
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2. Main points

- **Long-term guarantee measures and equity risk**. The main proposals from EIOPA include:
    - Risk-free interest rates: change the method of extrapolating risk-free interest rates to better reflect market rates.
    - Volatility adjustment: better align the design of the adjustment to its objectives, in particular reward insurers for holding illiquid liabilities.
    - Risk margin: recognise diversification over time thereby reducing size and volatility of the margin, especially for long-term liabilities.
    - Equity risk: revise the criteria for the ability to hold equity long-term, by making a link with longterm illiquid liabilities.
- **Solvency capital requirements**. EIOPA proposes to increase the capital requirement for the interest rate to reflect the steep fall of interest rates experienced during the last years and the existence of negative interest rates.
- **Proportionality**. EIOPA proposes to:
    - Increase proportionality across the three pillars of Solvency II, especially regarding low risk undertakings.
    - Introduce a new process for applying and supervising the principle of proportionality characterised by clarity, predictability, risk sensitiveness, supervisory dialogue and reversal of the burden of proof.
    - Increase the effectiveness of proportionality embedded in the supervisory review process.
    - Increase the transparency on the use of proportionality measures across the three pillars of Solvency II.
- **Macroprudential policy**. EIOPA proposes to:
    - Supplement the current microprudential framework with a macroprudential perspective.
    - Introduce tools and measures to equip national supervisory authorities with sufficient powers to address all sources of systemic risk.
- **Recovery and resolution**. EIOPA proposes to develop a minimum harmonised and comprehensive recovery and resolution framework for (re)insurers to deliver increased policyholder protection and financial stability in the EU.
- **Insurance guarantee schemes**. EIOPA proposes to introduce a European network of national insurance guarantee schemes or alternative mechanisms that should meet a minimum set of harmonised features for the benefit of policyholders and financial stability.

04/12/2020
Discussion Paper on methodology on inclusion of climate change in Nat Cat standard formula

1. Context

In 2019 the EIOPA published the Opinion on Sustainability within Regulation of Solvency II, which considered that further work was needed to investigate whether additional climate change-related perils could be better captured in this Regulation framework. Solvency II is a risk-based approach that should consider the natural catastrophe risk (Nat Cat). The Nat Cat module calculates the Solvency Capital Requirement (SCR) linked with Nat Cat events.

In this context, the EIOPA has published the **Discussion Paper on methodology on inclusion of the climate change in Nat Cat standad formula** with the aim to evaluate and introduce the methodology, as well as define process changes to include climate change in the Nat Cat SCR standard formula.

2. Main points

- **Methodology for the Nat Cat SCR calibration**. The current methodology covers several exposures and perils that are used in conjunction with a number of parameters that consider the hazard, vulnerability and exposure of the corresponding regions, and the country factor in order to calculate the Nat Cat Solvency Capital Requirements (SCR).
- **Perils and countries impacted by climate change**. The EIOPA focuses on the dangers arising from climate change that are relevant to the insurance sector: i) the increasing of mean temperature; ii) the increasing of temperature variability; and iii) increased moisture capacity in atmosphere due to higher temperatures. The effects of climate change requires adaptation measures that can contribute to the components of weather-related risks. Furthermore, these adaptation measures must be taken into account because they not only contribute to the risk components but also contribute to anticipate the adverse effects of the climate change and minimize the damage that these risks may cause.
- **Inclusion of climate change in the Nat Cat SCR calibration**. The current parameters in the Nat Cat Standard Formula (SF) do not explicitly consider climate change and this could be potentially inadequate for some countries/perils which are more affected by the impact climate change.

3. Next steps

- Comments to this document can be submitted until **26 February 2021**.

03/12/2020
Consultation Paper on the relevant ratios to be mandatorily disclosed by insurers and reinsurers

1. Context

The European Commission (EC) published in 2020 the Taxonomy Regulation, whose main objective is to establish relevant criteria to determine whether an economic activity can be qualified as environmentally sustainable. In addition, this Regulation enables the EC to carry out delegated acts to complement some of its provisions, especially with regard to the European Supervisory Authorities (ESAs) to carry out delegated acts in relation to the transparency of entities in non-financial statements.

In this context, the EIOPA has published the **Consultation Paper on the relevant ratios to be mandatorily disclosed by insurers and reinsurers** with the aim to consider whether the mandatory ratios of non-financial undertakings, as set out in the Taxonomy Regulation, are relevant and appropriate to depict insurance and reinsurance activities or whether they need to be 'translated' to the most appropriate and comparable key performance indicators for insurance and reinsurance businesses.
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2. Main points

- **Relevant ratios for insurance and reinsurance undertakings**.
    - <u>Non-financial undertakings' capital expenditure and operating expenditure</u>. The objectives in this area are:
        - To understand to what extent the insurer's **undertakings' 'assets', in relation to 'total assets'** are directed at funding economic activities identified as environmentally sustainable in the EU taxonomy and can be considered an appropriate ratio.
        - To propose in case the previous one is not an appropriate ratio, an **additional ratio** to measure the extent to which the undertaking is engaging in environmentally sustainable activities.
    - <u>Non-financial undertakings' turnover</u>. The suggestion of the EC is to relate the 'turnover' ratio to nonlife insurance and reinsurance underwriting and to exclude life insurance written premiums. In this context, measuring the insurer's or reinsurer's underwriting exposure associated with taxonomy activities could be depicted by the extent to which technical provisions are associated with taxonomy activities.
- **Economic activities**. Insurance and reinsurance undertakings should provide a narrative basis for the allocation of their insurance activities identified as environmentally sustainable and to provide an appropriate proxy in case the underlying portfolio of insurance contracts is too complex to decipher. Therefore, the mandatory ratios should be accompanied by relevant disclosure about the accounting policies applied, in particular on the level of granularity when assessing individual contracts and the extent to which enabling services have been provided.
- **Other considerations**.
    - <u>Specifying disclosures of insurers versus reinsurers and their corresponding activities</u>. Considering the objective to identify the levels of funding provided to environmentally sustainable economic activities, there is no obvious distinction between insurance and reinsurance undertakings that would require different key performance indicators.
    - <u>Retroactive application of the disclosure requirements</u>. The consideration to apply the disclosure requirements retroactively is particularly important considering the staggered approach of the Taxonomy Regulation where the disclosure requirements apply to climate change mitigation.
    - <u>Potential impact of the recommendation</u>. The suggested key performance indicators (KPI) are relevant to depict the degree to which insurance and reinsurance undertakings carry out environmentally sustainable economic activities.

3. Next steps

- Comments to this CP can be submitted until **12 January 2021**.

01/12/2020

Consultation Paper on Statement on supervisory practices and expectations in case of breach of the SCR

1. Context

This Supervisory Statement is based on the Solvency II Directive, approved in 2009, which establishes the level of Solvency Capital Requirements (SCR) for insurance and reinsurance undertakings. In addition, the Regulation stablishing the EIOPA was approved in 2010, in which the Authority may develop new practical instruments and convergence tools to promote common supervisory approaches and practices.

In this context, the EIOPA has published the **Supervisory Statement on practices and expectations in case of breach of the CSR** with the aim to promote supervisory convergence in the application of the supervisory ladder, in particular addressing the recovery plan required in case of breach of the CSR.

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2. Main points

- **Non-compliance with the SCR**. Insurance and reinsurance undertakings should consider as the date of non-compliance with the SCR the date on which non-compliance with the SCR has been observed through their on-going monitoring.
- **Request of a recovery plan and causes of non-compliance**. Insurance and reinsurance undertakings are required to submit to the supervisory authorities a realistic recovery plan within two months upon the observation of a breach of the SCR. In addition, the supervisory authorities should request from these undertakings, as part of the recovery plan, an analysis of the causes of non- compliance and of any shortcomings in their risk management system, including possible inadequacy of: i) internal risk appetite; ii) quantitative or qualitative indicators/measures; iii) overall risk tolerance limits; iv) metrics used within the risk management system to measure risks; v) stress test framework; and vi) monitoring process.
- **Assumptions and scenarios of the recovery plan**. Insurance and reinsurance undertakings should take at least the following into account when preparing their recovery plan:
    - <u>The forecast balance sheet and estimates</u> should be based on realistic assumptions and should be tested for the different business lines, and where applicable and appropriate for the parent company, subsidiaries and branches.
    - The scenarios <u>should consider any foreseeable and probable relevant adverse events</u>. The forecast balance sheet and estimates should reflect an assessment of the business exposures related to the risk coverages or guarantees of the insurance products.
    - In case the forecast <u>balance sheet and estimates</u> reflect the implementation of management actions leading to investment gains, reduction of expenses/commissions or release of technical provisions, those actions should be consistent with the business strategy and with any re-calculation of the technical provisions.
    - <u>When preparing recovery plans in the context of the COVID-19 pandemic</u>, undertakings should take into account how the pandemic might evolve including possible further waves.
- **Recovery measures and period**. Insurance and reinsurance undertakings should detail the realistic and timely recovery measures to restore their solvency position and sustain it in a medium to long-term period. The recovery plan should document the feasibility of the recovery measures, including foreseeable and probable relevant adverse events.
- **Monitoring and non-compliance at the end of the recovery period**. After a recovery plan has been submitted, insurance and reinsurance undertakings should notify supervisory authorities of any significant change in the extent of the solvency or liquidity shortfall.

3. Next steps

- Comments to this CP can be submitted until **17 February 2021**.

15/10/2020
Guidelines on information and communication technology security and governance

1. Context

Information and communication technology (ICT) risk is considered part of operational risk, defined as the possibility of loss due to breaches in the confidentiality of information, failures in the integrity of systems and data, unavailability of systems, as well as the impossibility of adequate ICT change management. Given the growing increase in ICT risk, including cyber-security-related risks in recent years, the EIOPA considers the management of these risks to be essential for the achievement of the objectives of insurers and reinsurers.

In this context, EIOPA has published **Guidelines on ICT security and governance** with the aim of ensuring a consistent management approach in the sector. Specifically, these document specify through 25 guidelines the expectations of EIOPA on aspects such as governance and strategy, ICT and security risk management framework, information security policy, access control, ICT security monitoring, ICT operations management, security incident and continuity management, and the outsourcing of ICT systems and services.

2. Main points

- **Governance and strategy**. It defines the Board's responsibility for establishing strong internal governance and an internal control framework that assigns clear roles to the staff of the organizations. In addition, it requires the establishment and communication of an ICT strategy aligned with the business strategy and the management and mitigation of security and ICT risks through independent and objective control functions (ensuring the independence of the three lines of defense and reporting the second line of defense directly to the board).
- **Security and ICT risk management framework**. Insurers and reinsurers are required to maintain an up-to-date inventory of their business functions, roles, support processes and information resources, classifying them according to their criticality in terms of confidentiality, integrity and availability, and to periodically assess operational risks related to security and ICT risks, with an impact on the organisation. In addition, periodic audits of the management and governance of ICT risks are required.
- **Information security policy**. It requires the establishment of an information security policy that sets out at a high level the principles and rules for protecting the confidentiality, integrity and availability of information, as well as the roles and responsibilities for managing ICT risks. The policy should be communicated to all employees of the organization and be applicable to service providers.
- **Access control**. These guidelines place special emphasis on access control and monitoring, establishing minimum requirements regarding: need-to-know, minimum privilege and segregation of duties, use of generic accounts, privileged users, means of authentication, access rights management, remote access management and establishment and monitoring of access logs.
- **ICT security monitoring**. It requires the implementation of procedures to ensure the confidentiality, integrity and availability of ICT systems and services through the protection and implementation of mechanisms that ensure the integrity of the organization's assets, as well as continuous monitoring and periodic analysis to identify vulnerabilities.
- **Management of ICT operations**. It describes the requirements for the management of ICT projects, including the acquisition, development, and maintenance of ICT systems and services. Entities must ensure the controlled evaluation of changes in their production, testing, approval and implementation.
- **Continuity and Security Incident Management**. Expectations regarding business continuity management and security incident management are specified. Insurers and reinsurers must ensure that they have effective response, recovery and communication plans and procedures.
- **Outsourcing of ICT systems and services**. The need to guarantee the adequate management of the outsourced services is established, with service level agreements, control requirements, access and audit rights, as well as specifying the location of the data, having to be established contractually.

3. Next steps

- These Guidelines shall apply from **1 July 2021**.

08/10/2020
Consultation on the draft Opinion on the supervision of the use of climate change risk scenarios in ORSA

1. Context

In 2019, EIOPA released an Opinion on Sustainability within Solvency II, which recommended that (re)insurers consider climate risks beyond the one-year time horizon through the system of governance, risk-management system and their Own Risk and Solvency Assessment (ORSA). In EIOPA's view, it is essential to foster a forward-looking management of climate change-related risks by insurers, also in the long term, and to enhance supervisory convergence across Europe.

In this context, EIOPA has published the **Consultation on the draft Opinion on the supervision of the use of climate change risk scenarios in ORSA** where it sets out EIOPA's expectations to national competent authorities (CA) on how to supervise the integration of climate change scenarios by insurers in their ORSA, applying a risk-based and proportionate approach.

2. Main points

- **Integration of climate change risk in ORSA in the short and long term**. CAs should require undertakings to integrate climate change risks in their system of governance, risk-management system and ORSA. They should expect undertakings to assess climate change risk in the short and long terms using scenario analysis to inform the strategic planning and business strategy.
- **Definition of climate change risk**. CAs should expect undertakings to take a broad view of climate change risk, including all risks stemming from trends or events caused by climate change. Climate change risk can broadly be categorised into two drivers of risk:
    - Transition risks are risks that arise from the transition to a low-carbon and climate-resilient economy.
    - Physical risks are risks to that arise from the physical effects of climate change.
- **Materiality assessment of climate change risks**. CAs should expect undertakings to identify the materiality of exposures to climate change risks through a combination of qualitative and quantitative analyses:
    - A qualitative analysis could provide insight in the relevance of the main drivers of climate change risk in terms of traditional prudential risks, counterparty risk, underwriting risk, operational risk, reputational risk and strategic risk.
    - A quantitative analysis could be used to assess the exposure of assets and underwriting portfolios to transition risk and physical risks.
- **Range of climate change risk scenarios**. Supervisors should expect insurers to subject material climate change risks to at least two long-term climate scenarios, where appropriate:
    - A climate change risk scenario where the global temperature increase remains below 2°C, preferably no more than 1.5°C, in line with the EU commitments.
    - A climate change risk scenario where the global temperature increase exceeds 2°C.
- **Evolution of climate change risk analyses**. CAs should expect that the scope, depth and methodologies of undertakings' quantitative analyses of climate change risk evolve, as modelling approaches advance and undertakings gain more experience.
- **Supervisory reporting and consistent disclosure**. CAs should expect undertakings to present and explain in the ORSA supervisory report the analysis of short and long-term climate change risks, including:
    - An overview of all material exposures to climate change risks, an explanation how the undertaking assessed the materiality and, where relevant, an explanation if the undertaking concluded that climate change risk is not material.
    - The methods and main assumptions used in the undertaking's risk assessment of material exposures, including the long-term scenario analysis.
    - The quantitative and qualitative outcomes of the scenario analyses and the conclusions drawn from the results.

3. Next steps

- Comments to this document can be submitted until **5 January 2021**.

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23/12/2020

- **Final Report RTS on methodology to estimate P2 and CBR for setting MREL requirements**
- **Final Report on ITS on reporting of MREL decisions**
- **Resporting framework 3.0 and technical standards on Pillar 3 disclosure**

1. Context

The EBA has published its **final draft Regulatory Technical Standards (RTS) specifying the methodology to be used by resolution authorities to estimate the Pillar 2 (P2R) and combined buffer requirements (CBR) at resolution group level** for the purpose of setting the minimum requirement for own funds and eligible liabilities requirement (MREL). Furthermore, the EBA has also published its **final draft Implementing Technical Standards (ITS) specifying uniform reporting templates, instructions and methodology for the identification and transmission, by resolution authorities to the EBA, of information on MREL**. Both standards are part of the EBA's major programme of work to implement the BRRD and address the problem of too-big-to-fail banks.

Moreover, the EBA has published an **update to the reporting framework 3.0 and the ITS on institutions' Pillar 3 public disclosures**. These updates are the result of the EC's adoption of the ITS on Supervisory Reporting (v3.0), the EBA publication of the revised version of the mapping between disclosures and reporting, and the EBA release of phase 1 of its technical package on the reporting framework v3.0.

2. Main points

Final Report RTS on methodology to estimate P2 and CBR for setting MREL requirements

- **Methodology for MREL requirements**. The BRRD tasked the EBA with developing a methodology for authorities to use in estimating the capital requirements to be used as inputs when calibrating MREL. These draft RTS set out this methodology which:
    - Introduces a threshold to capture only resolution groups that differ sufficiently from the prudential group.
    - Aims to be pragmatic by combining top-down and bottom-up approaches to estimating the additional own fund requirement (P2R) and the CBR.
    - Aims to minimise the burden on resolution authorities while creating a positive dynamic between banks, resolution authorities and competent authorities to improve the calibration of MREL at resolution group level, where resolution groups differ from prudential groups.

Final Report on ITS on reporting of MREL decisions

- **ITS reporting templates, instructions and methodology for MREL**. The draft ITS set out in this consultation paper (CP) replace the previous ITS on MREL reporting in order to properly reflect the changes introduced to the BRRD. These draft ITS set out minimum procedural obligations covering reporting periods and submission dates, as well as templates to be used by resolution authorities when informing the EBA of the MREL requirements they have set. The templates laid down in the annexes to the ITS are to be used for reporting on each component of the decision in compliance with the methodology laid down in the BRRD. This information will help the EBA in monitoring and promoting the consistent application of the legal framework on MREL.

Reporting framework 3.0 and technical standards on Pillar 3 disclosure

- **Adoption of ITS on Supervisory Reporting**. The EBA updated its website to reflect the EC's adoption of the Supervisory Reporting Implementing Act and its Annexes, which included changes introduced by the CRR2 and the Prudential Backstop Regulation.
- **Disclosures and ITS on Supervisory Reporting**. The Pillar 3 ITS on institutions' public disclosures have been developed to foster consistency across supervisory reporting. The EBA has updated the mapping of quantitative disclosure data and supervisory reporting, which aims at facilitating institutions' compliance and improving the consistency and quality of the information disclosed. The EBA also published a file summarising the frequency at which each type of institution should disclose each template and table, in accordance with the CRR2.
- **Phase 1 of technical package of reporting framework**. The technical package of the reporting framework provides the standard specifications for the implementation of the EBA reporting requirements. The package includes the validation rules, the Data Point Model (DPM) data dictionary and the XBRL taxonomies for v3.0.

3. Next steps (cont.)

- The draft RTS on methodology to estimate P2 and CBR for setting MREL requirements and the Final Report on ITS on reporting of MREL decisions will be submitted to the EC for endorsement before being published in the Official Journal of the European Union. This RTS will apply from the **twentieth day following that of their publication in the Official Journal of the European Union.**
- The EBA reporting framework 3.0 is expected to apply from **30 June 2021.**

17/12/2020

Final Draft RTS on the calculation of the stress scenario risk measure under Article 325bk(3) of CRR2.

1. Context

In November 2016, the European Commission proposed the amendments to the Capital Requirements Regulation (CRR), which required that institutions shall calculate the stress scenario risk measure (SSRM, Stress Scenario Risk Measure) for all the non-modellable risk factors (NMRF, Non-Modellable Risk Factors) of the trading book positions in a given portfolio. In this line, the publication of these amendments included to CRR in May 2019, setting up a mandate to the EBA to develop draft Regulatory Technical Standards (RTS, Regulatory Technical Standards) to specify how to calculate the 'extreme scenario of future shock' and how to apply it to the NMRF to form the stress scenario risk measure. On the other hand, in December 2017, the EBA published a Discussion Paper (DP) on the EU implementation of market risk and counterparty credit risk revised standards. Considering the feedback received on the discussion paper, and in light of the final international standards, the EBA launched in July 2019 a data collection exercise presenting several SSRM calculation method variants.

In this context, and after the consultation launched in June 2020, the EBA has published the **Final Draft Regulatory Technical Standards (RTS) on the calculation of the stress scenario risk measure** with the aim of setting out a clear methodology is deemed necessary to ensure a level playing field among institutions in the EU. In particular, these Final draft RTS set out the methodologies that institutions are required to use for the purpose of determining the extreme scenario of future shock that, when applied to the NMRF, provides the SSRM.

2. Main points

- **Overarching approach for determining the extreme scenario of future shock and determination of the stress period for the NMRF**. These final draft RTS require institutions to determine the stress scenario risk measure from risk factor observations collected for the stress period. In other words, the observation period that is used to calibrate the shock applicable to the NMRF is the stress period. It implies that the institution calculates the SSRM as the loss occurring when the extreme scenario of future shock is applied to the NMRF. Also in this case, such SSRM is then rescaled to reflect the liquidity horizons of the NMRF directly in the aggregation formula set out in these final draft RTS.
- **Determination of the extreme scenario of the shock**. Institutions are required to determine a scenario of future shock by applying one of the two methodologies proposed, which have two variants for each methodology depending on whether the institution calculates the stress scenario risk measure for a single NMRF or for the NMRF belonging to a non-modellable bucket.
    - <u>Direct method for future shock</u>: the direct method requires institutions to derive the scenario of future shock by directly calculating the expected shortfall of the portfolio losses.
    - <u>Stepwise method for future shock</u>: the stepwise method requires institutions to determine the scenario of future shock by steps.
- **Regulatory extreme scenario of future shock that institution may use (or may be required to use) when unable to develop an extreme scenario of future shock**. In this case, the competent authority may require the institution to consider the maximum loss that may occur due to a change in the as the stress scenario risk measure for that NMRF. Where such maximum loss does not take a finite value, then institutions shall use an approach using quantitative and qualitative information available to determine a prudent value of the loss that can occur due to a change in the value of the NMRF. Such loss must be determined targeting a level of certainty equal to 99.95% (i.e. it cannot be exceeded in the 99.95% of the cases on a 10 business day horizon).
- **Circumstances under which institutions may calculate a SSRM for more than one NMRF**. These Final draft RTS set out that institutions may calculate a unique SSRM for more than one NMRF if those risk factors belong to the same regulatory bucket and the institutions use the regulatory bucketing approach for assessing the modellability of those risk factors.
- **Aggregation of the stress scenario risk measures**. These Final draft RTS propose an aggregation formula that aims at capturing the following effects:
    - The <u>non-linearity in the loss function</u> for NMRF for which the institution identified the extreme scenario of future shock using the stepwise method. However, when losses grow faster than linearly, the expected shortfall of losses for varying is higher than the loss of the expected shortfall, such non-linear effects should be captured in the aggregation formula.
    - The <u>uncertainty</u> due to the lower observability of non-modellable risk factors, statistical estimation error and the uncertainty in the underlying distribution for NMRF. It should be noted that where the institution applies the stepwise method such uncertainty is already captured where identifying the extreme scenario of future shock; accordingly, such effect has to be captured in the aggregation formula only for risk factors where the extreme scenario of future shock has been identified applying the direct method.
    - The <u>liquidity horizons</u> of the relevant NMRF since the general methodology has been designed to get a 10-days SSRM.
    - The <u>correlation</u> among NMRF.

3. Next steps (cont.)

- The final draft RTS will apply from the **twentieth day** following that of their publication in the Official Journal or the European Union.

16/12/2020
Final Draft Regulatory on Technical Standards (RTS) for the contractual recognition of stay powers under Bank Recovery and Resolution Directive (BRRD)

1. Context

Directive (EU) 2019/879 of the European Parliament and of the Council of 20 May 2019 amended Directive 2014/59/EU by introducing, amongst other, certain safeguards in order to enhance effective resolution execution in relation to financial contracts subject to third-country law in the absence of a statutory cross-border recognition framework, which ensures the effectiveness of the contractual recognition of stay powers by a Member State's resolution authority. This amendment also align the BRRD with the relevant international standards for cross-border effectiveness of resolution actions such as the Financial Stability Board's 'Key Attributes of Effective Resolution Regimes for Financial Institutions', and 'Principles for Cross-border Effectiveness of Resolution Actions'.

In this context, the EBA has published **the Final Draft RTS on the contractual recognition of stay powers under BRRD** with the aim to determine the content of the contractual term to be included in financial contracts, so that the parties recognize that the contract may be subject to the exercise of the powers of the resolution authorities to suspend or restrict the rights and obligations established in BRRD.

2. Main points

• **Contents of the contractual term**. Contractual recognition term in a relevant financial contract governed by third country law shall include all of the following terms:

- <u>Acknowledgement and acceptance</u> by the parties that the contract may be subject to the exercise of powers by a resolution authority to suspend or restrict rights and obligations under BRRD.
- <u>Description of or a reference to the powers of the relevant resolution authority</u> as set out in BRRD and a description of the conditions of exclusion of certain contractual terms in early intervention and resolution.
- <u>Recognition by the parties that they are bound by the effect of an application of the powers and requirements referred in the previous point and by the requirements of exclusion of certain contractual terms in early intervention and resolution</u>. This powers are specifically:
  - The suspension of any **payment or delivery obligation**.
  - The restriction of enforcement of any **security interest**.
  - The suspension of any **termination right** under the contract.
- <u>Acknowledgement and acceptance by the parties</u> that the contractual recognition term is exhaustive on the matters described therein to the exclusion of any other agreements, arrangements or understandings between the counterparties relating to the subject matter of the relevant agreement.

3. Next steps

- The final draft RTS will apply from the **twentieth day** following that of their publication in the Official Journal or the European Union.

16/11/2020
Final draft RTS on prudential requirements for investment firms

1. Context

On 5 December 2019, the European Parliament and the Council published the Investment Firm Directive (IFD) and Investment Firm Regulation (IFR) which separates the prudential treatment of investment firms (IFs) and credit institutions and will be applicable 18 months after their entry into force. In the IFD/IFR, a significant number of mandates has been given to the EBA, often in consultation with the European Securities and Markets Authority (ESMA), which has direct implications for the implementation of the framework. In this sense, the EBA published in June 2020 its roadmap for the implementation of the new regulatory framework for investment firms which contains several mandates that cover a broad range of areas related to the prudential treatment of IF.

In this context, the EBA has published the **Final Draft RTS on prudential requirements for Investment Firms** which will ensure a proportionate implementation of the new prudential framework for IF taking into account the different activities, sizes and complexity of these.

2. Main points

- **Final Draft RTS on prudential requirements for IFs**. This document includes a set of Final draft RTS which cover the following aspects:
    - The first draft RTS included in this final report have been developed for the mandates in line with the EBA roadmap related to the authorisation of certain credit institutions:
        - Draft RTS on the **information to be provided for the authorization of IFs as Credit Institutions**, which consist of a subset of the information to be provided to competent authorities for the authorisation of a credit institution, as well as a set of requirements that is proposed in the EBA Draft RTS and ITS on Authorisation of Credit Institutions.
    - The second group of the mandates regarding the EBA roadmap related to capital requirements for IFs at solo level. The mandates are implemented by developing the following draft RTS:
        - Draft RTS to **specify the calculation of the fixed overheads requirement** and where the notion of material change is specified.
        - Draft RTS to **specify the methods for measuring the K-factors** which provides clarification on the measurement of most of the Risk-to-Client (RtC) K-factors and some of Risk-to-Firm (RtF) K-factors.
        - Draft RTS to **clarify the notion of segregated account** by setting the conditions for their identification for the purpose of calculating the capital requirement related to the K-factor client money held (K-CMH).
        - Draft RTS to **specify adjustments to the daily trading flow (K-DTF) coefficients** in the event that, in stressed market conditions, K-DTF requirements seem overly restrictive and detrimental to financial stability.
        - Draft RTS to **specify the calculation of the amount of the total margin** for the calculation of the K-factor clearing margin given (K-CMG) and the criteria for avoiding regulatory arbitrage in the event that K-CMG approach is used.
        - Draft RTS on the **criteria for subjecting certain IF to the CRR** which set the quantitative thresholds above which, an investment firm's activities should be considered to be of a significant scale which could lead to a systemic risk.
    - The Final Draft contains several accompanying documents which include a Draft on cost-benefit analysis/impact assessment concerning these draft RTS that assess the possible costs and benefits of the considered options and the relative scale of these costs and benefits for different stakeholders.

3. Next steps

- The RTS on prudential requirements for investment firms shall apply from **26 June 2021**.

15/12/2020
Updated Basel III impact study

1. Context

On December 2017, the Basel Committee on Banking Supervision (BCBS) finalised the Basel III framework, with the objective to reduce excessive variability of risk-weighted asset (RWAs) and improve the comparability of banks' capital ratios. Furthermore, in May 2018, the European Commission (EC) released a Call for Advice (CfA) requesting technical advice from the EBA on the implementation of Basel III reforms in the EU. The advice, published in 2019, included a quantitative impact assessment at the highest level of consolidation, a set of policy recommendations and a macroeconomic impact assessment.

In this context, the EBA has published its updated ad-hoc **impact study on the implementation of Basel III in the EU**. This report presents the updated quantitative impact assessment of the final Basel III reforms and a complementary analysis of the potential impact of the COVID-19 pandemic. The EBA conclusions in the original report remain unchanged. The EBA continues to support the policy recommendations published in its advice in 2019.

2. Main points

- **Sample and reference dates**. The study is based on a sample of 99 banks and has a reference date of December 2019.
- **Key findings of the quantitative analysis**. The overall impact is presented under two implementation scenarios:
    - <u>Basel III scenario</u>. This scenario updates the impact presented in the previous CfA reports. Under the Base IIII scenario:
        - The **minimum required Tier 1 capital** (MRC) increases by +18.5%.
        - The impact would determine a EUR 52.2 billion **total capital shortfall**, of which EUR 30.2 billion of CET1.
        - The **increases in MRC and capital shortfall** are noticeably lower than the estimates reported in the December 2019 CfA report, for a consistent sample.
    - <u>EU-specific scenario</u>. This scenario considers the additional features requested by the EC in its CfA. Under the EU-specific scenario:
        - The **MRC impact** would reduce to +13.1%, resulting in a total capital shortfall of EUR 33.0 billion, of which EUR 17.4 billion of CET1.
- **Complementary analysis on the potential effects of Covid-19 on Basel III**. There is still uncertainty around how banks' balance sheets will change as a result of the Covid-19 crisis. A complete assessment of how the Basel III reforms interact with the effects of the crisis is not possible in the absence of data that illustrate the actual impacts once these effects materialise. Therefore, the Report includes an analysis that is mainly qualitative in nature and reflects on the potential interactions between the different elements of Basel III framework and the expected shocks.

14/12/2020

- **2020 Risk Assessment of the European Banking system**
- **2020 Autumn EU-wide transparency exercise**

1. Context

The EBA has published its **annual Risk Assessment Report (RAR)**, which describes the main developments and trends that have affected the EU banking sector since the end of 2019 and provides an outlook on the main risks and vulnerabilities. In particular, the RAR includes aggregate results on capital position, return on equity (RoE), non-performing loans (NPL) ratio, and coverage ratio of NPLs. Moreover, the RAR also addresses other aspects such as the level of liabilities, operational risks or risks to the global economy.

Moreover, along with the RAR the EBA has published the **results of the Autumn EU-wide 2020 transparency exercise** which provides detailed information for 129 banks across 26 European Economic Area (EEA) countries and for 6 banks from UK. In April, the EBA already published an additional transparency exercise which came as a response to the outbreak of COVID-19 and provided market participants with bank-level data as of 31 December 2019, prior to the start of the crisis.

2. Main points

- **Sample of banks in the RAR**. The RAR builds on the supervisory reporting data that competent authorities submit to the EBA on a quarterly basis for a sample of 162 banks from 29 EEA countries (131 banks at the highest EU level of consolidation from 27 countries). Based on total assets, this sample covers about 80% of the EU banking sector.
- **Reference date of the RAR**. The data presented in the RAR is as of 30 June 2020.
- **Data for the RAR**. The RAR is based on qualitative and quantitative information collected by the EBA. The report's data sources are the following:
    - EU supervisory reporting.
    - The EBA risk assessment questionnaire (RAQ), addressed to banks and market analysts.
    - Market intelligence as well as microprudential qualitative information.
- **Results of the RAR**. Despite the COVID-19 shock, banks have maintained solid capital and liquidity ratios and have increased their lending to the real economy. However, economic uncertainty persists, profitability is at record low levels, and there are several early signs for a deterioration in asset quality.
    - Banks have maintained strong capital and liquidity positions while they have increased lending to the real economy. Capital and liquidity ratios well above regulatory minimum allowed banks to provide necessary financing to non-financial corporations at the beginning of the crisis. Public guarantees and regulatory relief measures helped CET1 levels to recover from the initial hit after the outbreak of the pandemic, while extraordinary central bank facilities helped banks to maintain ample liquidity buffers despite tensions in wholesale funding markets. However, the leverage ratio fell slightly as total assets grew more than capital.
    - Asset quality is expected to deteriorate materially over the next quarters. Banks have booked significant provisions on performing loans that have resulted in a material increase in cost of risk. Although NPL ratios have continued to decline, other asset quality metrics already show signs of deterioration. Loans classified under IFRS 9 stage 2 and forborne exposures have increased markedly. The phasing out of COVID-19-related measures, such as moratoria on loan repayments and public guarantees, will also likely affect asset quality. In the long term, it is noteworthy that, according to an EBA preliminary analysis, more than 50% of exposures to large corporates are to sectors potentially vulnerable to climate risk.
    - Banks' operational resilience has been broadly unaffected despite the challenges posed by COVID-19. Nonetheless, the usage of information and communication technology (ICT) has grown further, increasing technology-related risks. Money laundering cases still pose important legal and reputational risks.
    - Banks' structural profitability challenges remain. Low interest rates, which may stay lower for longer than expected prior to the pandemic, and strong competition from both banks and non-banks, like FinTech firms, are adding pressure to banks' core revenues. The recent fall in operating expenses has offset somewhat the pressure on pre-provision profits, yet these costs might bounce back once the pandemic is over. COVID-19 might at the same time be the catalyst for many clients to become digital customers, hence increasing branch overcapacity. Banks might opt for M&A deals to exploit potential cost synergies.

Overview of key figures:

	CET1 ratio (transitional)	CET1 ratio (fully loaded)	Liquidity coverage ratio	NPL ratio	Share of Stage 2 loans	RoE	Leverage ratio (fully phased-in)
Q2 2020	15.0%	14.7%	166.0%	2.9%	8.2%	0.5 %	5.2%
Q1 2020	14.6%	14.4%	148.9%	3.0%	7.0%	1.3 %	5.2%

Reference date as of 31 March 2020 (Q1) and 30 June 2020 (Q2)

04/12/2020

Final Draft RTS on the treatment of non-trading book positions subject to foreign exchange risk or commodity risk

1. Context

CRR2 implements in EU legislation, inter alia, revised requirements to compute own funds requirements for market risk. In accordance with that Regulation, institutions are required to calculate own funds requirements for market risk for: i) positions held in the trading book; and ii) positions held in the banking book (i.e. non-trading book) bearing foreign exchange (FX) or commodity risk. Furthermore, the EBA is mandated to develop draft regulatory technical standards (RTS) to specify how institutions should calculate the own funds requirements for non-trading book positions that are subject to FX risk or commodity risk in accordance with the alternative standardised approach (SA) and the alternative internal model approach (IMA).

In this context, the EBA has published the **final draft RTS on the treatment of non-trading book positions subject to foreign exchange risk or commodity risk** that: i) specify the value that institutions are to use when computing the own funds requirements for market risk for banking book positions; ii) lay down a prudential treatment for the calculation of the own funds requirements for market risk of non-monetary items held at historical cost that may be impaired due to changes in the foreign-exchange rate; and iii) specify an ad-hoc treatment with respect to the calculation of the actual and hypothetical changes associated to banking book positions for the purpose of the backtesting and the profit and loss (P&L) attribution requirements.

2. Main points

- **Own funds requirements for non-trading book positions subject to FX risk**. The final draft RTS specify that institutions can use either the last available accounting value or the last available fair value as a basis for calculating the own funds requirements for non-trading book positions subject to FX risk. Although institutions are not expected to perform a full revaluation of non-trading book positions attracting FX risk, the draft RTS require them to update the FX component of those positions. The frequency at which such updates must be performed is monthly for institutions using the SA for capitalising the FX risk stemming from the banking book and daily for those using the IMA.
- **Non-monetary items**. The draft RTS also set out the treatment for non-monetary items held at historical cost that may be impaired due to changes in the relevant exchange rate. In this respect, the draft RTS identify a specific methodology that institutions should use when capitalising the FX risk stemming from those items under the alternative SA, while they require institutions to directly model the risk of an impairment due to changes in the relevant exchange rate when they capitalise the FX risk of those positions using the alternative IMA.
- **Non-trading book**. As regards non-trading book positions attracting commodity risk, the draft RTS set out that institutions are to use the last available fair value when computing the corresponding own funds requirements. The draft RTS specify that the fair value must be updated monthly where the own funds requirements for those positions are calculated using the alternative SA and daily where they are calculated using the alternative IMA.
- **Backtesting and P&L attribution requirements**. These draft RTS also include provisions about the calculation of the hypothetical profit and loss (HPL) and actual profit and loss (APL) for non-trading book positions. Specifically, for positions that are subject to FX risk or to commodity risk, the draft RTS generally expect institutions not to include in the effects of APL and HPL changes that are not related to FX risk or commodity risk and that may lead, for example, to overshootings when comparing those changes against the Value-at-Risk numbers. However, the draft RTS also foresee specific treatments that reduce the operational burden that institutions may be subject to if they were to isolate those components under all circumstances.

3. Next steps

- The draft RTS shall enter into force on the **twentieth day following that of its publication** in the Official Journal of the European Union.

03/12/2020
Reactivation of Guidelines on legislative and non-legislative moratoria

1. Context

The EBA Guidelines on legislative and non-legislative loan repayments moratoria were published on 2 April 2020 to ensure that banks, while maintaining comparable metrics, would be able to grant payment holidays to customers avoiding the automatic classification of exposures under the definition of forbearance or as defaulted under distressed restructuring. With the unfolding of the COVID-19 pandemic, in June 2020, the EBA extended the application date of its Guidelines by three months, from 30 June to 30 September 2020, and on the 21 September, communicated its phasing-out.

In this context, the EBA has decided to **reactivate its Guidelines on legislative and non-legislative moratoria**. This reactivation will ensure that loans, which had previously not benefitted from payment moratoria, can now also benefit from them. The EBA revised Guidelines, which will apply until 31 March 2021, include additional safeguards against the risk of an undue increase in unrecognised losses on banks' balance sheet.

2. Main points

- **New constraints**. As part of the re-activation of its Guidelines on legislative and non-legislative moratoria, the EBA has introduced two new constraints to ensure that the support provided by moratoria is limited to bridging liquidity shortages triggered by the new lockdowns and that there are no operational restraints on the continued availability of credit:
    - Only loans that are suspended, postponed or reduced under general payment moratoria not more than 9 months in total, including previously granted payment holidays, can benefit from the application of the Guidelines.
    - Credit institutions are requested to document to their supervisor their plans for assessing that the exposures subject to general payment moratoria do not become unlikely to pay. This requirement will allow supervisors to take any appropriate action.

    Institutions may apply these guidelines to reclassifications of exposures as defaulted due to distressed restructuring and/or forborne on the basis of moratoria that were applied between 1 October 2020 and 1 December 2020 and meet the other requirements. Where institutions do so, the 9-month cap requirement applies to changes in the payment schedule agreed in relation to such exposures.

3. Next steps

- This Guidelines will apply until **31 March 2021**.

16/11/2020

- **Methodological Note of the EU-wide Stress Test 2021**
- **2021 EU-wide Stress Test-Template Guidance**
- **2021 EU-wide Stress Test-Templates**

1. Context

In March 2020, the EBA decided to postpone the EU-wide stress test exercise to 2021 to allow banks to focus on and ensure continuity of their core operations, including support for their customers. The objective of the EU-wide stress test is to provide supervisors, banks and other market participants with a common analytical framework to consistently compare and assess the resilience of EU banks and the EU banking system to shocks, and to challenge the capital position of EU banks. The exercise is based on a common methodology, internally consistent and relevant scenarios, and a set of templates that capture starting point data and stress test results to allow a rigorous assessment of the banks in the sample.

In this context, the EBA has published the **Final methodology, draft templates and template guidance for the 2021 EU-wide stress test** along with the key milestones of the exercise. The methodology and templates include some targeted changes compared to the postponed 2020 exercise, such as the recognition of FX effects for certain P&L items, and the treatment of moratoria and public guarantees in relation to the current COVID-19 crisis.

2. Main points

- **Sample of banks and scope of consolidation**.
    - 49 EU banks will participate in the exercise covering broadly 70% of the banking sector in the euro area, each non-euro area EU Member State and Norway. In case the UK transitional period for negotiating additional arrangements with the EU is extended beyond 31 December 2020 and UK entities were to be included in the sample of the 2021 EU-wide stress test, HSBC France would need to be excluded from the sample. For its part, Bankia and CaixaBank have agreed on a merger that is planned to take place in 2021, however, the merger is pending the shareholders' approval. In case the shareholders approve the merger by beginning of December, the two banks will be excluded from the sample and replaced by Bankinter, Mediobanca – Banca di Credito Finanziario and Banco Comercial Português.
    - To be included in the sample, banks have to hold a minimum of €30 billion in assets. Nonetheless, CAs could request to include additional institutions in their jurisdiction provided that they have a minimum of €100 billion in assets.
    - The scope of consolidation is the perimeter of the banking group as defined by the CRR/CRD.
- **Reference date**. The exercise is carried out on the basis of year-end 2020 figures, and the scenarios will be applied over a period of 3 years from end 2021 to end 2023.
- **Macroeconomic scenarios**. The stress test includes a baseline scenario and an adverse scenario, applied over a period of 3 years from end 2021 to end 2023.
    - The exercise is conducted on the assumption of static balance sheet as in previous exercises, which applies on a solo, sub-consolidated and consolidated basis for both the baseline and the adverse scenario.
- **Risk coverage**.
    - Banks are required to stress test the following common set of risks:
        - **Credit risk**, including securitisation.
        - **Market risk**, **counterparty credit risk** (CCR) and **credit valuation adjustment** (CVA).
        - Operational risk, including conduct risk.
    - Banks are also requested to project the effect of the scenarios on net interest income (NII) and to stress P&L and capital items not covered by other risk types.
    - The risks arising from sovereign exposures are covered in credit risk and in market risk, depending on their accounting treatment.
    - FX effects have impacts on the net fee and commissions income (NFCI) and other remaining administrative expenses, as well as on the NII (which already applied to ST 20).
- **Results**.
    - The impact of the EU-wide stress test will be reported in terms of CET1. In addition, the Tier 1 capital ratio and total capital ratio, as well as the leverage ratio, will be reported for every year of the exercise.
    - Like in the 2016 and 2018 stress test, no hurdle rates or capital thresholds are defined for the purpose of the exercise. CAs will apply the results as an input to the SREP.

2. Main Points (cont.)

- **Process**. It involves close cooperation between the EBA, the CAs and the ECB, as well as the European Systemic Risk Board (ESRB) and the European Commission.
    - The ESRB and the ECB develop the macroeconomic adverse scenario and any risk type specific shocks linked to it.
    - The ECB supplies the macroeconomic baseline scenario.
    - The EBA coordinates the exercise, defines the common methodology as well as the minimum quality assurance guidance for competent authorities.
    - The CAs are responsible for the quality assurance process.
- **Main changes on the templates**. Two additional tabs are required:
    - COVID-19: banks are required to provide information regarding exposures under COVID-19 related moratoria, and newly originated exposures subject to COVID-19 public guarantee schemes (PGS).
    - Non-performing exposures (NPL Calendar): contains exposure values, components of the actual loss coverage, minimum loss coverage levels and amounts of insufficient coverage related to non-performing exposures in the scope of Regulation (EU) No 2019/630 amending CRR as regards minimum loss coverage.

3. Next steps

- **Key milestone dates of the 2021 EU-wide stress test exercise:**
    - Launch of the exercise at the end of January 2021.
    - Submission of results to the EBA: i) First submission at the beginning of April 2021; ii) Second submission in mid-May 2021; iii) Third submission at the end of June 2021; and iv) Final submission in mid-July 2021.
    - Publication of results by end-July 2021.

10/11/2020
Monitoring report on TLAC-MREL eligible liabilities instruments of European Union Institutions

1. Context

On May 2019, co-legislators adopted a package of amendments to the banking framework that modified CRR2, CRD5, BRRD2 and SRMR2, known as the banking package. This package updates the framework for the minimum requirement for eligible liabilities (MREL) and implements the Financial Stability Board (FSB) total loss-absorbing capacity (TLAC). For its part, CRR2 also expands the scope of the EBA's ongoing review of the quality of own funds and the quality of TLAC and MREL instruments.

In this context, the EBA has published the **first monitoring report on TLAC-MREL eligible liabilities instruments** with the objective to inform stakeholders about the implementation review on TLAC / MREL instruments and to present its views and current recommendations on specific features commonly seen in these instruments. This report it is not meant to analyse the final compliance of any given instrument, but to assess the application of the eligibility criteria and to present best practices. In addition, this Report highlights the importance to provide further guidance on the interaction between the clauses used for environmental, social and governance (ESG) capital issuances and the eligibility criteria for eligible liabilities instruments.

2. Main points

- **Sample**. This Report is based on the review of 27 transactions issued in 14 jurisdictions for a total amount of EUR 22,75bn. In particular, the Report includes EUR 21bn of senior non-preferred (SNP) issuances and EUR 1,75bn of senior holding company (HoldCo) issuances. According to the EBA quantitative report on MREL, out of the 222 resolution groups that were considered in the shortfall analysis, 117 show an MREL shortfall, totalling EUR 178 billion as of December 2018.
- **Results of the report**. The EBA observes that European banks have not waited for the adoption of the new banking package to start issuing MREL and TLAC instruments. The EBA also has obtained a set of conclusions on the following areas of analysis:
    - <u>Availability</u>. Availability criteria can generally not be verified solely on the basis of the contract. A complementary analysis may be warranted to establish that the issuing entity is a resolution entity or that the holders are not themselves resolution group entities or funded by the resolution group.
    - <u>Subordination</u>. The main areas covered in this section include: i) contractual subordination; ii) statutory subordination and iii) structural subordination. The recommendations include:
        - **Issuers should set out unambiguous terms on the ranking of notes in national insolvency**, and there should be no doubt that the notes are subordinated to statutory excluded liabilities.
        - Subordination of interest to excluded liabilities is not imposed as an eligibility criterion. However, **there should always be clarity in the terms and conditions of the bonds of the ranking of interest**.
    - <u>Capacity for loss absorption</u>. This section includes an analysis of the clauses on set-off and netting, acceleration of the interest and principal payments of the notes, interest and dividend, write-down and conversion and negative pledges. The recommendations include:
        - **Investigate further the interaction between set-off and netting clauses and relevant national laws** to better understand the effectiveness of such a clause in practice.
        - **A compensatory payment in the terms and conditions of the** notes from the holder in case an amount due to the issuer is unduly discharged as a result of netting or set-off can be seen as best practice.
        - **Acceleration can occur only on the ground of insolvency or liquidation**, and that, it cannot occur in resolution (or a moratorium).
    - <u>Maturity</u>. This section includes an analysis of the clauses on call and put options, incentives to redeem and supervisory approval for early redemption. The recommendations include:
        - **Careful monitoring of the wording of options**, especially for put options that are not exercised on the initiative of the issuer, to ensure in particular that put options cannot be exercised at any time.
        - **An explicit reference to prior approval of reductions** in eligible liabilities is recommended as for own funds.
    - <u>Other aspects</u>. In this section, the EBA assessed governing law, tax and regulatory calls, and tax gross-up clauses. The recommendations include:
        - **Tax gross-up should be accepted only under certain conditions**, as applicable to eligible liabilities instruments.

05/11/2020
Discussion paper on management and supervision of ESG risks

1. Context

In 2015 the EU adopted as a commitment the binding target of reducing greenhouse gas emissions by at least 40% by 2030, compared to 1990. In addition, the EU presented in 2019 the European green deal which included the objective that Europe would become climate neutral by 2050. For its part, the financial sector is expected to play a key role in financing the transition to a sustainable economy, which is why CRDV and the Investment Services Firms Directive (IFD) contain a mandate to the EBA to produce a report providing uniform definitions of Environmental, Social and Governance risks (ESG), as well as appropriate qualitative and quantitative criteria (including stress tests and scenario analysis) for the assessment of the impact of ESG risks on the financial stability of institutions in the short, medium and long term.

In this context, the EBA has published the **Discussion Paper on ESG risks management and supervision** aiming to collect feedback for the preparation of its final report on the topic. This paper provides a comprehensive proposal on how ESG factors and risks could be included in the regulatory and supervisory framework for credit institutions and investment firms. This Paper also provides details on the risks stemming from environmental factors, especially climate change, and illustrates ongoing initiatives and progress achieved on this topic over the recent years. In addition, this discussion paper also contains a non-exhaustive list of factors, indicators and ESG metrics.

2. Main points

- **Common definitions of ESG factors, ESG risks and their transmission channels**. This section provides definitions and examples about:
  - Environmental risks. Can include physical risks and transition risks. The first ones are defined as one of the transmission channels through which climate-related risks can materialise, impacting negatively the financial position of counterparties and, hence, potentially causing the depreciation of assets. The second ones comprise the risks related to the depreciation of assets due to policy, legal, technological and/or behavioral changes.
  - Social risks. Are related to the rights, well-being and interests of people and communities, which may have an impact on the activities of the institutions' counterparties.
  - Governance risks. Are the risks posed by the exposure of institutions to counterparties that may potentially be negatively affected by governance factors
  - Liability risks. Financial risks stemming from the exposure of institutions to counterparties potentially held accountable for the negative impact of their activities on ESG.
- **Quantitative and qualitative indicators, metrics and methods to assess ESG risks**. Quantitative and qualitative indicators will help to classify ESG risks. In addition, the following methodologies will support the identification, assessment and evaluation of these risks
  - Alignment method. The key principle behind this approach is for institutions, investors and supervisors to understand in how far portfolios are in line with globally agreed climate targets. The advantage of this method is that it introduces explicit and directly oriented objective. The disadvantage is that it's not focused on individual exposures.
  - Risk framework method. This method is a purely risk driven approach, it is focused on the sensitivity of portfolios and the impact climate change has on exposures actual riskiness. It does not make any statements on how the portfolio composition positions relative to global climate targets and as such does not provide an explicit guide to banks on how they would have to shift their portfolios to align with ESG factors. This method has the advantage of being risk-based, while its disadvantages are complexity and uncertainty.
  - Exposure method. This method is a tool that banks can apply directly to the assessment of individual clients and individual exposures, even in isolation. The basic principle of this approach is to directly evaluate the performance of an exposure in terms of ESG. This method has the advantage of being transparent and simple, while its disadvantage is the problems of comparability with some ratings

2. Main Points (cont.)

- **The management of ESG risks by institutions**. This section is structured around the three main elements:
  - Business strategies and business processes. The most relevant areas in order to reflect the ESG risks are i) monitoring the changing business environment and evaluating long-term resilience; ii) setting ESG risk-related strategic objectives and/or limit; iii) engaging with customers and other relevant stakeholder and iv) considering the development of sustainable products.
  - Internal governance. In relation to governance, aspects relating to the roles that institutions should have in order to successfully implement ESG risk management are included. Specifically, the following aspects are covered: i) management body and committees; ii) internal control framework and iii) remuneration.
  - Risk management. Active ESG risk management is consequently fundamental to ensure that institutions identify such risks in a timely manner, hence being able to respond to them. The main ones are:
    - **Risk appetite, risk policies and risk limits**. Institutions should also include in ICAAP and ILAAP frameworks a description of the risk appetite levels, thresholds and limits set for the identified material risks.
    - **Data and methodology**.
    - **Risk monitoring and mitigation**.
    - **Stress testing for climate risk**.
    - **Reporting and disclosure**. Consideration of ESG factors in the company's investments and activities should be included and reflected in reporting and disclosure.
  - Investment firms-specific considerations. Investment firms have very similar characteristics to banks and may therefore also be subject to ESG risks. In this respect, these firms are expected to consider ESG factors in their activities and to reflect their risk tolerance for ESG risks.
- **ESG factors and ESG risks in supervision**. This section elaborates details on how ESG risks could be reflected in supervisory review, building on common definition and the elements to be considered by institutions related to business strategies, business processes, governance and risk management. The main risks that should be assessed are:
  - ESG risks in business model analysis. Describes how the integration of ESG risks into the business strategy can be evaluated by the supervisors as an additional perspective when analysing the business model of credit institutions.
  - Internal governance and institution wide controls. Analyse the adequacy of banks' internal governance arrangements is assessed in the light of the risk profile, the business model, the nature, size and complexity of the bank.
  - Assessment of risks to capital. The relevant risks for assessing capital risks are:
    - **Credit risk**. While credit risk is generally assessed in the short to medium term, the introduction of ESG controls in the credit risk assessment carries the need to enhance the extension of the horizon of the analysis through the use of forward looking metrics (e.g. scenario analysis).
    - **Market risk**. Supervisors must assess how credit institutions proactively monitor the impact of ESG risks on their market risk positions.
    - **Operational risk**. Supervisors may consider that the risks that institutions finance increase the risk of future reputational or legal damage.
  - Assessment of risks to liquidity and funding. Supervisors must assess the risk of institutions to the lack of reliable and comparable information on climate exposure, which could create uncertainty and lead to pro-cyclical market dynamics.

3. Next steps

- Comments to this paper can be sent until **3 February 2021**.
- The report is expected to be delivered in **June 2021**.

16/10/2020
Final draft RTS on the prudential treatment of software assets

1. Context

As part of the Risk Reduction Measures (RRM) package adopted by the European legislators, the deductions from Common Equity Tier 1 (CET 1) items have been amended, introducing, inter alia, an exemption from the deduction of intangible assets in case of “prudently valued software assets, the value of which is not negatively affected by resolution, insolvency or liquidation of the institutions”.

In this context, and after the consultation paper issued in June 2019, the EBA has published the **Final draft Regulatory Technical Standards (RTS) on the prudential treatment of software assets** which specifies the application of the exemption to the deduction of intangible assets from CET 1 and the materiality of the negative effects on the value which do not cause prudential concerns. In this sense, the EBA aimed at achieving an appropriate balance between the need to maintain a certain margin of conservatism/prudence in the treatment of software for prudential purposes, and the acknowledgment of the relevance of software assets from a business and economic perspective, in a context of increasing digital environment.

2. Main points

- **Prudential treatment of software assets based on their amortisation**. This final draft RTS contains an approach developed based on prudential amortization. Under this approach, the positive difference between the prudential and the accounting accumulated amortization would be fully deducted from CET 1 capital, while the residual portion of the carrying amount of software would be subject to a 100%risk-weighted. Furthermore, this approach would appropriately take into account the manner the recoverable value of software assets is negatively affected over time. The useful life of software estimated for accounting purposes should be shorter than the prudential amortization period. In this sense, the calibration of the prudential amortization period is set at 3 years. Institutions shall calculate the prudential amortization of software assets by multiplying the result derived from the calculation of the two following points:
    - <u>The amount at which the software assets have been initially recognised in the balance sheet of the institution in accordance with the applicable accounting framework</u>, divided by the lower of:
        - The number of days of **useful life** of the software asset, as estimated for accounting purposes.
        - **3 years** starting from the date on which the software asset is available for use and begins to be amortised for accounting purposes.
    - <u>The number of calendar days elapsed</u> since the date on which the software asset is available for use and begins to be amortised for accounting purposes, provided that this does not exceed the period of the previous point.
- **Supervision**. This final draft RTS covers a number of areas where a close scrutiny will be warranted by regulators, supervisors and external auditors, as a change in the current treatment might affect the accounting practices currently used by the supervised institutions and to what extent this would have an impact on the regulatory metrics. In this regard, potential areas to be monitored deal with the practices adopted for:
    - <u>The capitalization of the costs</u> related to internally generated software.
    - <u>The estimation of the expected useful life and the amortization methodology</u> of software assets.
    - <u>The treatment of software assets acquired as part of business combinations</u>.

3. Next steps

- This Regulation shall enter into force on the **day following that of its publication** in the Official Journal of the European Union and shall be binding in its entirety and directly applicable in all Member States.

02/10/2020
2021 Work Programme

1. Context

The EBA has published the **2021 Work Programme** describing the activities and tasks of the Authority for the coming year and highlighting its key strategic areas of work. The EBA 2020 work programme was adjusted to take into account the COVID-19 crisis, addressing the immediate concerns, while delivering on existing mandates and delaying some. One key adjustment to the 2020 work programme was to postpone the EU-wide stress test exercise from 2020 to 2021 to allow banks to focus on and ensure continuity of their core operations and support customers early in the pandemic. The EBA also revisited its planning for 2021, reprioritised its tasks, and identified a new horizontal priority to address the aftermath of COVID-19.

2. Main points

- **Strategic priorities**. The EBA has defined the key priorities for the organization:
  - <u>Supporting deployment of the risk reduction package and the implementation of effective resolution tools</u>. The EBA will continue to:
    - Fulfil the mandates assigned for the full implementation of the new **CRD/CRR, BRRD and IFD/IFR** legislative packages.
    - Prepare technical standards, guidelines and reports to support the timely implementation of the new **prudential regime for investment firms**.
    - Work to foster the increase of the **loss absorbency capacity** of the EU banking system.
    - Facilitate the **operationalisation of the resolution tools** and the interactions with securities and competition laws.
  - <u>Reviewing and upgrading the EU-wide EBA stress testing framework</u>. The 2021 EU-wide stress test will follow a similar structure in terms of methodology, sample and timing of the 2020 exercise stable. However, the EBA has already started a reflection on more structural long-term changes and it will design a new methodology to be introduced for the 2023 EU-wide stress test at the earliest.
  - <u>Becoming an integrated EU data hub, leveraging on the enhanced technical capability for performing flexible and comprehensive analyses</u>. The EBA will be a data hub at the service of competent authorities and the public as it expects an increase in data requests from national competent authorities (NCAs) and external stakeholders. Quantitative Pillar 3 data will be integrated with supervisory reporting data to the greatest possible extent, and the EBA will act as a hub for Pillar 3 disclosure.
  - <u>Contributing to the sound development of financial innovation and operational resilience in the financial sector</u>. The EBA will continue to focus on ensuring technological neutrality in regulation and supervisory approaches. Specific areas of work will include platformisation, regulatory and supervisory technologies, further work on operational resilience, and understanding developments in crypto-assets, artificial intelligence and big data.
  - <u>Building the infrastructure in the EU to lead, coordinate and monitor AML/CFT supervision</u>. The EBA will continue to lead policy development and promote effective and consistent policy implementation by NCAs. Qualitative and quantitative information will be gathered by the EBA in 2021 in order to build a database to foster the exchange of information between NCAs and support the new AML colleges.
  - <u>Providing the policies for factoring in and managing ESG risks</u>. The EBA will:
    - Produce the **report on the incorporation of ESG into the risk management of institutions and supervision**, setting out policy direction, indicators and methods on ESG-related governance, risk management and supervision.
    - Prepare the **ITS on ESG disclosures in Pillar 3** outlining the qualitative and quantitative information on environmental, social and governance factors.
    - Support and monitor market efforts to improve approaches to **scenario analysis and stress testing**, while gathering evidence around the prudential treatment of assets associated with environmental and/or social objectives.
    - Participate in global, European and national **initiatives in ESG risks**.
- **Focus on horizontal priorities for 2021**. Stemming from the horizontal strategic priorities, the EBA will take special care of the following in 2021:
  - <u>Establishing a culture of sound and effective governance and good conduct in financial institutions</u>. The EBA will work to ensure that issues around governance, conduct, including the treatment of customers and AML/CFT, as well as sustainability factors, are adequately captured in relevant supervisory frameworks, in particular ensuring that governance and conduct issues are sufficiently addressed including through the internal control framework of financial institutions.
  - <u>Addressing the aftermath of COVID-19</u>. The EBA will be active in monitoring and mitigating the effects of Covid-19 on EU banks, promoting coordinated actions of competent authorities. The EBA will intensify the assessment of asset quality as well as monitoring the use of moratoria and public guarantees in order to ensure that risk metrics remain reliable and that banks can support the recovery and cope with potentially increasing losses.

10/12/2020
Circular 5/2020 sobre normas de información financiera pública y reservada

1. Context

In 2001, the BoS published Circular 6/2001 on holders of currency exchange establishments which determined the obligations that such holders had to report to the BoS. In addition, in 2017, published Circular 4/2017 on public and confidential financial reporting standards with the aim of adapting the accounting regime of Spanish credit institutions to the changes in the European accounting system resulting from the adoption of two new International Financial Reporting Standards (IFRS), IFRS 15 and IFRS 9. In this regard, Circular 4/2017 expresses the compatibility strategy to be carried out by the BoS with IFRS-EU when establishing a complete accounting framework, with special development of the most relevant aspects for financial activities.

In this context, the BoS has published **Circular 5/2020 on public and private financial reporting standards and model financial statements**, which amends Circular 6/2001 and takes as a reference and incorporates improvements and clarifications to Circular 4/2017, as it requires payment institutions and electronic money institutions to apply the same accounting standards as credit institutions. Additionally, this Circular represents a step forward in the homogenization of national accounting regulations for financial institutions in their convergence with the European accounting framework.

2. Main points

- **Public financial information**.
  - Content of financial information. It determines the documents to be published by payment institutions and electronic money institutions (annual accounts, management report and audit report) and general requirements on the content of the annual accounts, both individual and consolidated: (i) submission to the BoS of the primary individual financial statements; and (ii) submission of the financial statements on payment services and electronic money issuance by the 20th day of the second month following the month to which they relate.
  - Recognition, measurement and reporting criteria. Payment institutions and electronic money institutions shall report separately in the annual report of the individual and consolidated accounts on the activities of providing payment services or issuing electronic money, activities of providing other closely related operational or auxiliary services and other economic activities performed.
- **Reserved financial information**.
  - Processing criteria. It establishes that groups are subject to the specificities set out in this Circular, regardless of whether they apply the accounting criteria of this regulation or IFRS-EU directly. In addition, payment institutions and electronic money institutions will include in their databases, as a minimum, all the attributes of persons and transactions with debit or credit balances required to prepare public and reserved statements.
  - Reserved States. It includes the specificities of the reserved states, both individual and consolidated and relating to the statistical requirements of the Economic and Monetary Union, in terms of models, breakdowns, frequency and time of transmission.
- **Internal accounting development and management control**. Payment institutions and electronic money institutions must comply with the requirements for internal accounting development, management control and registration of guarantees, powers of attorney and procedures stipulated in Circular 4/2017.
- **Presentation of financial information in the BoS**. Payment institutions and electronic money institutions shall send the BoS the annual accounts, the management report and the audit report, as well as the public and reserved states in accordance with the requirements established in Circular 4/2017. In addition, the BoS may require from institutions, in general or in particular, all the information it needs to clarify and detail the public and confidential financial statements.

3. Next steps

- This Circular will come into force on **1 January 2021**.
- The first reserved financial statements to be sent with the new models will be those corresponding to **30 June 2021**.

BANCO DE ESPAÑA
Eurosistema

30/10/2020
Expectativas sobre los riesgos derivados del cambio climático y del deterioro medioambiental

1. Context

Climate change and environmental impact is a global concern that is being transformed into initiatives in different areas. In December 2019, the European Commission (EC) presented the European Green Deal, which contains a set of measures aimed at making Europe climate neutral by 2050. The BoS has also promoted initiatives aimed at addressing the implications of the energy transition for Spanish banks and has developed various public initiatives to promote awareness and preparedness in the banking sector.

In this context, the BoS has published the **Expectations on risks arising from climate change and environmental impact**, which aims to make explicit how institutions should progress in order to take these risks into account. This document is relevant to holding groups of banks and to banks not belonging to one of these holding groups.

2. Main points

- **Business model and strategy**. The BoS expects institutions to incorporate those risks arising from climate change and environmental impact that they consider may be material in the short and long term into their strategy, business model and risk appetite framework. Institutions may consider the following aspects:
    - Business environment. Entities could consider longer time horizons than traditional ones for the strategic planning of these risks.
    - Key performance indicators. Entities could incorporate these new risks by monitoring key indicators in their main lines of business.
    - Analysis of stress scenarios and exercises. Entities will advance in the development and use of tools such as scenario analysis and stress exercises.
    - Risk appetite framework. This framework is expected to include the description of these risks and their impact.
- **Corporate Governance**. The new challenges associated with climate and environmental risks make it necessary for the organisational structure and internal governance of the entities to be adapted so that these risks are taken into account. The BoS expects that the Board of Directors will be responsible for integrating the risks arising from climate change and environmental impact into the general strategy.
- **Risk management**. The BoS expects institutions:
    - Consider risks arising from climate change and environmental impact in an integrated manner in their current risk management procedures, and adopt a comprehensive approach to their identification, assessment, monitoring and mitigation.
    - Incorporate risks arising from climate change and environmental impact into their internal capital adequacy and liquidity assessment processes (ICAAP and ILAAP).
    - Explore the use of scenario analysis and stress test.
    - Make an effort to improve the availability and quality of existing data on climate change risks.
- **Disclosure**. The disclosure of consistent and comparable information on risks arising from climate change and environmental impact is essential to enable investors and other stakeholders to make informed decisions. The BoS expects institutions to consider risks arising from climate change and environmental impact that are material in their prudential reporting.

3. Next steps

- The BoS does not expect institutions to implement all the expectations set out in this document from the outset, but plans to start analysing their progress in relation to these **18 months after its publication**, so that the progress made by the institutions, the difficulties encountered and the areas for improvement can be assessed.

17/11/2020

Ley 7/2020 para la transformación digital del sistema financiero

1. Context

The digital transformation of the economy and the financial sector represents a phenomenon of structural change that is driven by technological factors and by variations in the demand for services requested by citizens and companies. In particular, in the financial sector, new technologies produce efficiencies for the provider and users of financial services, as well as the reduction of information asymmetries and the improvement in the supervision of the financial sector. In this sense, the digital transformation must ensure that the capacity of the entire financial system to boost the economy and social and territorial cohesion is strengthened.

In this context, the Spanish Government has published **Law 7/2020 for the digital transformation of the financial system** with the aim of accompanying the digital transformation of the financial system with a set of measures aimed at establishing a regulatory framework for the regulatory sandbox in Spain. These measures are aimed at ensuring that the financial authorities have adequate instruments to continue to comply with their obligations in the digital context and to facilitate the innovative process of access to financing for the various productive sectors.

2. Main points

- **Controlled testing space**. This is a set of provisions that cover the controlled and delimited realization of tests within a project that can provide a technology-based financial innovation applicable in the financial system. There are three key aspects of the testing environment: i) it is a controlled space, which must be safe for the participants; ii) the controlled testing space is a regulatory and supervisory instrument; and iii) it is composed by a regulatory framework. The following regimes are discussed in this section:
    - Access regime. It establishes a system of single financial window for the presentation of projects by technological companies, financial entities, research centers or any other interested promoter.
    - System of guarantees and protection for participants. Seven main precautions are established, especially aimed at tests involving real users: (i) informed consent and protection of personal data; (ii) right of withdrawal; (iii) responsibility of the promoter; (iv) guarantees covering the responsibility of the promoter; (v) confidentiality; (vi) supervisory monitoring throughout the exercise of the tests; and (vii) possibility of interruption of the tests.
    - Output regime. The examination of the results will be carried out by the promoter of the tests and included in a report that will be sent to the authorities who have monitored the tests. The existence of a gateway to the activity is also contemplated, which implies a lightening of the legal and regulatory procedures required.
- **Other measures**. In this section the following measures are developed:
    - Specific provisions for the application of the principle of proportionality in all actions of public authorities in the financial sector.
    - A direct communication channel with the supervisory authorities is foreseen to give confidence to the innovators.
    - A channel is established for written consultations on regulatory and other aspects that may arise in the pursuit of evidence that may function as barriers to entry for different financial actors.
- **Institutional arrangements and accountability**.
    - Collaboration between authorities and coordination in their actions related to the digital transformation.
    - Constitution of a Commission to carry out the coordination between the authorities in order to establish homogeneous guidelines.

3. Next steps

- This law has come into force on the **day of its publication in the BOE**

CNMV
Comisión
Nacional
del Mercado
de Valores

17/11/2020
Circular 2/2020 sobre publicidad de los productos y servicios de inversión

1. Context

The publicity used by entities subject to the CNMV's supervisory activities can be very relevant for investors. Therefore, it is necessary that adequate regulation and supervision measures are established to ensure that the advertising is clear, sufficient, impartial and not misleading. In this sense, Order EHA/1717/2010, on the regulation and control of advertising for investment services, determined a system of advertising control based on a preventive and corrective approach that allowed the CNMV to require the cessation of advertising that does not comply with the applicable rules and obligations.

In this context, the CNMV has published **Circular 2/2020 on advertising of investment products and services**, which aims to develop the rules, principles and criteria to which the advertising activity of investment services and products should be subject, in accordance with the provisions of Order EHA/1717/2010, on the regulation and control of advertising of investment services and products.

2. Main points

- **Scope of application**.
    - This Circular is applicable to investment service companies, credit institutions and collective investment institution management companies when they carry out advertising activities for certain products and services.
    - Activities considered as advertising include activity on financial products, and services or activities subject to the supervision of the CNMV. The informative contents for the contracting of products or services subject to this Circular will not be considered advertising activity.
- **Control of advertising**.
    - Content and format of the advertising message. The information contained in commercial communications must be consistent with the information provided, including warnings, required by regulatory provisions or by requirement of the CNMV.
    - Commercial communication policy. Entities that carry out advertising activities must establish a commercial communication policy that includes adequate internal procedures and controls in order to guarantee compliance with the provisions of this Circular.
    - Registration of advertising. Entities shall keep an internal record properly updated of their advertising activities that complies with the conditions of truthfulness, completeness, accessibility and traceability necessary to facilitate the CNMV to perform its supervisory functions.
- **Supervision of advertising activity**. This Circular establishes the procedure to require the cessation or rectification of the advertising activity. In this sense, the CNMV may require entities to provide specific information on advertising campaigns or pieces in order to assess compliance with the requirements of Order EHA/1717/2010 and this Circular.

3. Next steps

- This Circular will come into force on **13 February 2021**, except for Rule 7 on the registration of advertising, which will come into force **six months after** the publication by the Bank of Spain of technical specifications.

30/10/2020
Final Rule on Regulatory Capital Treatment for Investments in Certain Unsecured Debt Instruments

1. Context

U.S. global systemically important bank holding companies (GSIBs), as well as U.S. intermediate holding companies of foreign GSIBs, are required to issue debt with certain features under the Fed's total loss-absorbing capacity rule (TLAC) issued in December 2016. That debt could be used to recapitalize the holding company during bankruptcy or resolution if it were to fail. The objective of the TLAC rule is to enhance financial stability by reducing the impact of the failure of covered banking organizations by requiring such organizations to have sufficient loss-absorbing capacity on both a going-concern and a gone-concern basis.

In this context, the Agencies have published a **Final Rule on Regulatory Capital Treatment for Investments in Certain Unsecured Debt Instruments** that applies to advanced approaches banking organizations with the aim of reducing both interconnectedness within the financial system and systemic risks. The final rule requires deduction from a banking organization's regulatory capital for certain investments in unsecured debt instruments issued by foreign or U.S. GSIBs for the purposes of meeting minimum TLAC requirements.

2. Main points

- **Scope of Application**. The final rule applies to advanced approaches banking organizations and generally requires deductions from capital for direct, indirect, and synthetic exposures to covered debt instruments and any other unsecured debt instruments with equal force or subordinated to covered debt instruments.
- **Deduction from Tier 2 Capital**. Under the final rule, an advanced approaches banking organization treats investments in covered debt instruments as investments in tier 2 capital instruments for purposes of applying the corresponding deduction approach in the capital rule. Deduction from capital is required for:
  - Investments in a covered bank holding company's or advanced approaches covered intermediate holding company's own covered debt instruments, as applicable.
  - Reciprocal cross holdings with another financial institution of covered debt instruments.
  - Investments in covered debt instruments of a financial institution while also holding 10 percent or more of the financial institution's common stock.
  - Investments in covered debt instruments that, together with investments in the capital of unconsolidated financial institutions, exceed 10 percent of the advanced approaches banking organization's CET 1 capital.

  Under the final rule, an advanced approaches banking organization may exclude from deduction investments in certain covered debt instruments up to five percent of its CET 1 capital, as measured on a gross long basis. For U.S. GSIBs, only excluded covered debt instruments are eligible for the five percent exclusion in the final rule. Generally, excluded covered debt instruments in the final rule are investments in covered debt instruments that are held in accordance with market making activities.

3. Next steps

- The Final Rule on Regulatory Capital Treatment for Investments in Certain Unsecured Debt Instruments is effective on **April 1, 2021**.

28/10/2020
Final Rule on NSFR: Liquidity Risk Measurement Standards and Disclosure

1. Context

Following the 2008 financial crisis, the Agencies implemented several requirements designed to improve the largest and most complex banking organizations' liquidity positions and liquidity risk management practices. In 2014, the Agencies adopted the liquidity coverage ratio (LCR) rule to improve the banking sector's resiliency to a short-term liquidity stress. In addition, the Fed also adopted the enhanced prudential standards rule, which established general risk management, liquidity risk management, and stress testing requirements for certain bank holding companies and foreign banking organizations. These reforms in the post-crisis regulatory framework did not include a requirement that directly addresses the relationship between a banking organization's funding profile and its composition of assets and off-balance commitments.

In this context, the Agencies have issued a final rule strengthening the resilience of large banks by requiring them to maintain a minimum level of stable funding over a one-year period. The **Final Rule on net stable funding ratio (NSFR)** will require large banks to maintain a minimum level of stable funding, relative to each institution's assets, derivatives, and commitments. As a result, the NSFR rule will support the ability of banks to lend to households and businesses in both normal and adverse economic conditions by reducing liquidity risk and enhancing financial stability.

2. Main points

- **NSFR**. The final rule requires large banking organizations to avoid excessively funding long-term and less-liquid assets with short-term or less-reliable funding and thus reduces the likelihood that disruptions in a banking organization's regular funding sources would compromise its funding stability and liquidity position. In addition, the final rule
    - Establishes a minimum NSFR requirement that is applicable on a consolidated basis to certain top-tier banking organizations with total consolidated assets of $100 billion or more, together with certain depository institution subsidiaries (covered companies).
    - Requires a covered company to calculate an NSFR based on the ratio of its available stable funding (ASF) amount to its required stable funding (RSF) amount and maintain an NSFR equal to or greater than 1 on an ongoing basis.
    - Includes public disclosure requirements for U.S. depository institution holding companies and U.S. IHC of foreign banking organizations that are subject to the final rule.

3. Next steps

- The Final Rule will be effective on **July 1, 2021**. Holding companies and any covered nonbank companies regulated by the Fed will be required to publicly disclose their NSFR levels semiannually beginning in 2023.

07/10/2020

Regulatory Capital Rule on Revised Transition of the Current Expected Credit Losses Methodology for Allowances

1. Context

In 2016, the Financial Accounting Standards Board (FASB) issued an Accounting Standards Update (ASU) on Measurement of Credit Losses on Financial Instruments. The update resulted in significant changes to credit loss accounting under US generally accepted accounting principles (GAAP). The revisions to credit loss accounting under GAAP included the introduction of the current expected credit losses methodology (CECL), which replaces the incurred loss methodology for financial assets measured at amortized cost.

In this context, the Fed, FDIC and OCC have published the **Regulatory Capital Rule on Revised Transition of the Current Expected Credit Losses Methodology for Allowances** that delays the estimated impact on regulatory capital stemming from the implementation of ASU on Measurement of Credit Losses on Financial Instruments.

2. Main points

- **Temporary deferral**. The final rule provides banking organizations that implement CECL during the 2020 calendar year the option to delay for two years an estimate of CECL's effect on regulatory capital, relative to the incurred loss methodology's effect on regulatory capital, followed by a three-year transition period. The agencies are providing this relief to allow these banking organizations to better focus on supporting lending to creditworthy households and businesses in light of recent strains on the U.S. economy as a result of the COVID-19, while also maintaining the quality of regulatory capital.

3. Next steps

- This Final Rule **has come into force** after its publication.

BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY

23/12/2020

- **PS 29/20 on CRD V**
- **PRA statement on the EU requirement on prudential treatment of software assets**
- **SS 31/15 on the ICAAP and the SREP**
- **PS on the PRA's methodology for setting Pillar 2 capital**
- **SS 32/15 on Pillar 2 reporting, including instructions for completing data items FSA071 to FSA082, and PRA111**

1. Context

The PRA has published the **policy statement (PS) 29/20 on CRD V** that provides the final policy to consultation paper (CP) on designation of firms within certain consolidation groups. It also contains final PRA Rulebook instruments, statements of policy (SoP), supervisory statements (SS), and templates as published in near-final form in PS on CRD V. Moreover, the PRA has also published a **PRA statement on the EU requirement on prudential treatment of software assets**. CRR exempts software assets from the deduction requirement for intangible assets from Common Equity Tier 1 (CET1). In accordance with the European Union Withdrawal Agreement Act 2020, this requirement now applies to PRA-regulated firms.

Furthermore, the PRA has published a **SS 31/15 on the ICAAP and SREP** which is aimed at firms to which CRD applies and provides further detail on the high-level expectations outlined in the PRA's approach to banking supervision. Aditionally, the PRA has published the **PS on the PRA's methodologies for setting Pillar 2 capital** which sets out the methodologies that the PRA uses to inform the setting of Pillar 2 capital for firms to which CRD IV applies. Finally, the PRA has published the **SS 32/15 on Pillar 2 reporting, including instructions for completing data items FSA071 to FSA082, and PRA111** which sets out the PRA's expectations of firms and provides further clarity on Pillar 2 data reporting.

2. Main points

<u>PS 29/20 on CRD V</u>

- **CRR consolidated prudential requirements**. The PRA introduces a new rule to designate the PRA subsidiaries of parent financial holding companies (FHCs) or parent mixed financial holding companies (MFHCs) as responsible for ensuring compliance with the group's CRR consolidated prudential requirements until the date on which its parent FHC or MFHC application for approval or exemption has been finally determined. This rule applies to a subsidiary firm controlled by a parent FHC in an EU Member State, or a parent MFHC in a Member State, that would be under an obligation to comply with CRR requirements on a consolidated basis with the same effect it had in the UK before its withdrawal from the EU.

<u>PRA statement on the EU requirement on prudential treatment of software assets</u>

- **Treatment of software assets**. Following the publication of the EBA Regulatory Technical Standards (RTS) on the prudential treatment of software assets, the PRA intends to consult in due course to maintain the earlier position whereby all software assets continue to be fully deducted from CET1 capital. In the meantime, while the revised EU requirement now applies to PRA-regulated firms, the PRA recommends firms not to base their distribution or lending decisions on any capital increase from applying this requirement. Firms should also take into account any significant software assets included in their regulatory capital in making capital management decisions.

<u>SS 31/15 on the ICAAP and the SREP</u>

- **ICAAP and SREP**. This SS includes the following chapters:
  - <u>Expectations of firms undertaking an ICAAP</u>. This sets out expectations in relation to the ICAAP and the requirements set out in the ICAA part of the PRA Rulebook.
  - <u>Stress testing, scenario analysis and capital planning</u>. This sets out expectations of firms in relation to stress testing, scenario analysis and capital planning, and the requirements set out in the ICAA part of the PRA Rulebook.
  - <u>Reverse stress testing</u>. This sets out expectations of firms in relation to reverse stress testing, and the requirements set out in the ICAA part of the PRA Rulebook.
  - <u>The SREP</u>. This sets out the factors that the PRA takes into consideration to assess a firm's ICAAP, including the setting of form-specific capital requirements and the PRA buffer.

2. Main Points (cont.)

PS on the PRA's methodologies for setting Pillar 2 capital & SS 32/15 on Pillar 2 reporting, including instructions for completing data items FSA071 to FSA082, and PRA111

- **Pillar 2**. This PS includes the following sections:
  - Pillar 2A methodologies. This sets out the methodologies that the PRA will use to inform the setting of a firm's Pillar 2A capital requirement for credit risk, market risk, operational risk, counterparty credit risk, credit concentration risk, interest rate risk in the non-trading book (IRRBB), pension obligation risk and Ring-fenced bodies (RFBs) group risk.
  - Pillar 2B. This provides information on the purpose of the PRA buffer, how it is determined and how it relates to the CRD IV buffers. This section also provides details on the PRA's approach to tackling weak governance and risk management under Pillar 2B and RFB group risk.

  Firms are required by the Reporting Pillar 2 part of the PRA Rulebook, or may be asked, to submit data to inform the PRA's approach to setting Pillar 2A capital requirements. Data may be requested on an individual, consolidated and/or sub-consolidated basis as applicable.
- **Reporting Pillar 2**. Firms are required to report Pillar 2 data to the PRA. This information, together with data already collected in other regulatory reports, allows the PRA to assess a firm's ICAAP and to calculate capital benchmarks for Pillar 2 risks. The data collection covers:
  - The results of the Pillar 2 capital methodologies calculated by firms.
  - Data that are used by the PRA to process the Pillar 2A capital methodologies.
  - Data that allow supervisors to verify the calculation of the Pillar 2A capital methodologies.
  - Data that allow supervisors to assess firms' stress test results and facilitate the calculation of the PRA buffer.
  - Data that provide additional information on the nature and scale of the Pillar 2 risks to which a firm is exposed.

  Firms are required to return the data items in conjunction with their ICAAP submission. Frequency of submission will depend on the frequency of ICAAP submission

3. Next steps

- The Rule on CRR consolidated prudential requirements applies from **28 December 2020** until the end of the transition period.

BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY

03/11/2020

- **Consultation Paper 8/20 on Bank Recovery and Resolution Directive II**
- **Consultation Paper 9/20 on Resolution assessments: Amendments to reporting and disclosure dates**
- **Consultation Paper 20/20 on Operational continuity in resolution: Updates to the policy**

1. Context

In December 2018, the PRA published a consultation paper (CP) where it outlined its thinking on the scope of operational continuity arrangements and committed to reviewing its existing Operational Continuity In Resolution (OCIR) policy in light of the Bank of England's (BoE) thinking and firms' experiences of implementation. On the other hand, regarding the Brexit, the UK is required to transpose the BRRD II amendments by 28 December 2020 but will subsequently cease to have effect from 31 December 2020, because of the implementation period (IP) completion day resulting from the withdrawal from the EU. Therefore BRRD II will apply for 4 days in the UK.

In this context, the PRA has published the **CP 18/20 on BRRD II** which sets out proposals relating to its Contractual Recognition of Bail-in (CROB) and Stay in Resolution Rules ("Stays") of the PRA Rulebook. Furthermore, the PRA has also published **CP 19/20 on Resolution assessments** which sets out the proposal to move back, by one year, the dates by which firms are first required to submit a report of their assessment of their preparation for resolution, and to first publish a summary of that report. Aditionally, the PRA has published **CP 20/20 on OCIR** that sets out its proposals to revise its OCIR policy and aims to improve firms' resolvability.

2. Main points

Consultation Paper 18/20 on Bank Recovery and Resolution Directive II

- **CROB and Stays**. In order to avoid two different impracticability notification regimes being in force at the same, and to provide firms with clarity as to which impracticability notification regime applies throughout those four days, the PRA proposes to:
  - Temporarily suspend part of the CROB Part of the PRA Rulebook from 28 December 2020. Reinstate the existing CROB Part, with minor amendments, to come into force immediately after IP completion day.
  - Amend the Stays Part of the PRA Rulebook from 28 December 2020 until IP completion day. Reintroduce the existing Stays Part, immediately after IP completion day.

Consultation Paper 19/20 on Resolution assessments: Amendments to reporting and disclosure dates

- **Reports and public disclosures**. The PRA proposes to move back, by one year, the dates by which firms are required to submit a report of their assessment of their preparation for resolution, and to first publish a summary of that report, as follows:
  - Firms would submit their first reports by the first Friday in October 2021, rather than by the first Friday in October 2020.
  - Firms would publish a summary of their reports by the second Friday in June 2022, rather than by the second Friday in June 2021.

  The dates of firms' subsequent reports and public disclosures would follow biennially, from October 2021 and June 2022 respectively.

2. Main points (cont.)

Consultation Paper 20/20 on Operational continuity in resolution: Updates to the policy

- **Continuity of critical functions and core business lines**. The proposals in this CP would require firms to consider the operational arrangements that support the viability of the firm, and its key drivers of revenue and profit in addition to those supporting its critical functions. This acknowledges that the process of resolution could take 3 to 6 months to execute and that implementation of a post-resolution restructuring plan is likely to extend beyond the point at which the firm has exited from resolution. The firm needs to be able to continue to operate throughout this process.
- **Financial Arrangements**. The PRA is proposing changes to its policy regarding the way firms' financial arrangements facilitate operational continuity. This proposal acknowledges that, since much of the firm will continue during resolution, firms would only need to cover situations in which financial resources would be available within the group, but might not be accessible in a timely manner. Firms would need to know how much financial resources they would need, and when and where those financial resources would be needed during resolution. They would also be expected to consider what might prevent such resources from being available in resolution.
- **Proposals to support continuity through changes to service provision**. Firms should be capable of ensuring continuity while being restructured following resolution. The PRA has proposed a number of changes to provide greater clarity compared with the existing policy, as well as amendments to the policy requirements that facilitate continuity throughout post-resolution restructuring. This includes amendments to the change capabilities needed to support transitional service arrangements and the need for predictable and transparent charging structures.

3. Next steps

- Comments to the CP 18/20 can be submitted until **30 November 2020**.
- Comments to the CP 19/20 and CP 20/20 can be submitted until **31 January 2021**.

BANK OF ENGLAND
PRUDENTIAL REGULATION AUTHORITY

23/12/2020

- **PS 29/20 on CRD V**
- **PRA statement on the EU requirement on prudential treatment of software assets**
- **SS 31/15 on the ICAAP and the SREP**
- **PS on the PRA's methodology for setting Pillar 2 capital**
- **SS 32/15 on Pillar 2 reporting, including instructions for completing data items FSA071 to FSA082, and PRA111**

1. Context

The PRA has published the **policy statement (PS) 29/20 on CRD V** that provides the final policy to consultation paper (CP) on designation of firms within certain consolidation groups. It also contains final PRA Rulebook instruments, statements of policy (SoP), supervisory statements (SS), and templates as published in near-final form in PS on CRD V. Moreover, the PRA has also published a **PRA statement on the EU requirement on prudential treatment of software assets**. CRR exempts software assets from the deduction requirement for intangible assets from Common Equity Tier 1 (CET1). In accordance with the European Union Withdrawal Agreement Act 2020, this requirement now applies to PRA-regulated firms.

Furthermore, the PRA has published a **SS 31/15 on the ICAAP and SREP** which is aimed at firms to which CRD applies and provides further detail on the high-level expectations outlined in the PRA's approach to banking supervision. Aditionally, the PRA has published the **PS on the PRA's methodologies for setting Pillar 2 capital** which sets out the methodologies that the PRA uses to inform the setting of Pillar 2 capital for firms to which CRD IV applies. Finally, the PRA has published the **SS 32/15 on Pillar 2 reporting, including instructions for completing data items FSA071 to FSA082, and PRA111** which sets out the PRA's expectations of firms and provides further clarity on Pillar 2 data reporting.

2. Main points

<u>PS 29/20 on CRD V</u>

- **CRR consolidated prudential requirements**. The PRA introduces a new rule to designate the PRA subsidiaries of parent financial holding companies (FHCs) or parent mixed financial holding companies (MFHCs) as responsible for ensuring compliance with the group's CRR consolidated prudential requirements until the date on which its parent FHC or MFHC application for approval or exemption has been finally determined. This rule applies to a subsidiary firm controlled by a parent FHC in an EU Member State, or a parent MFHC in a Member State, that would be under an obligation to comply with CRR requirements on a consolidated basis with the same effect it had in the UK before its withdrawal from the EU.

<u>PRA statement on the EU requirement on prudential treatment of software assets</u>

- **Treatment of software assets**. Following the publication of the EBA Regulatory Technical Standards (RTS) on the prudential treatment of software assets, the PRA intends to consult in due course to maintain the earlier position whereby all software assets continue to be fully deducted from CET1 capital. In the meantime, while the revised EU requirement now applies to PRA-regulated firms, the PRA recommends firms not to base their distribution or lending decisions on any capital increase from applying this requirement. Firms should also take into account any significant software assets included in their regulatory capital in making capital management decisions.

<u>SS 31/15 on the ICAAP and the SREP</u>

- **ICAAP and SREP**. This SS includes the following chapters:
  - <u>Expectations of firms undertaking an ICAAP</u>. This sets out expectations in relation to the ICAAP and the requirements set out in the ICAA part of the PRA Rulebook.
  - <u>Stress testing, scenario analysis and capital planning</u>. This sets out expectations of firms in relation to stress testing, scenario analysis and capital planning, and the requirements set out in the ICAA part of the PRA Rulebook.
  - <u>Reverse stress testing</u>. This sets out expectations of firms in relation to reverse stress testing, and the requirements set out in the ICAA part of the PRA Rulebook.
  - <u>The SREP</u>. This sets out the factors that the PRA takes into consideration to assess a firm's ICAAP, including the setting of form-specific capital requirements and the PRA buffer.

BANK OF ENGLAND
PRUDENTIAL REGULATION AUTHORITY

07/10/2020

Consultation Paper 14/20 on Internal Ratings Based UK mortgage risk weights: Managing deficiencies in model risk capture

1. Context

UK Financial institutions using the IRB approach for the calculation of credit risk capital show substantially lower mortgage risk weights than the EU average. Overall, the PRA considers that models delivering very low UK mortgage risk weights are not adequately taking into account relevant tail-risk events, and are likely materially deficient in risk capture.

In this context, the PRA has published the **Consultation Paper 14/20 on Internal Ratings Based UK mortgage risk weights and managing deficiencies in model risk capture** with the aim to address the prudential risks stemming from inappropriately low IRB UK mortgage risk weights. An additional benefit from these proposals would be a narrowing of differentials between IRB and standardised approach (SA) UK mortgage risk weights, and a limit on future divergence. The PRA considers that this would support competition between firms on the different approaches.

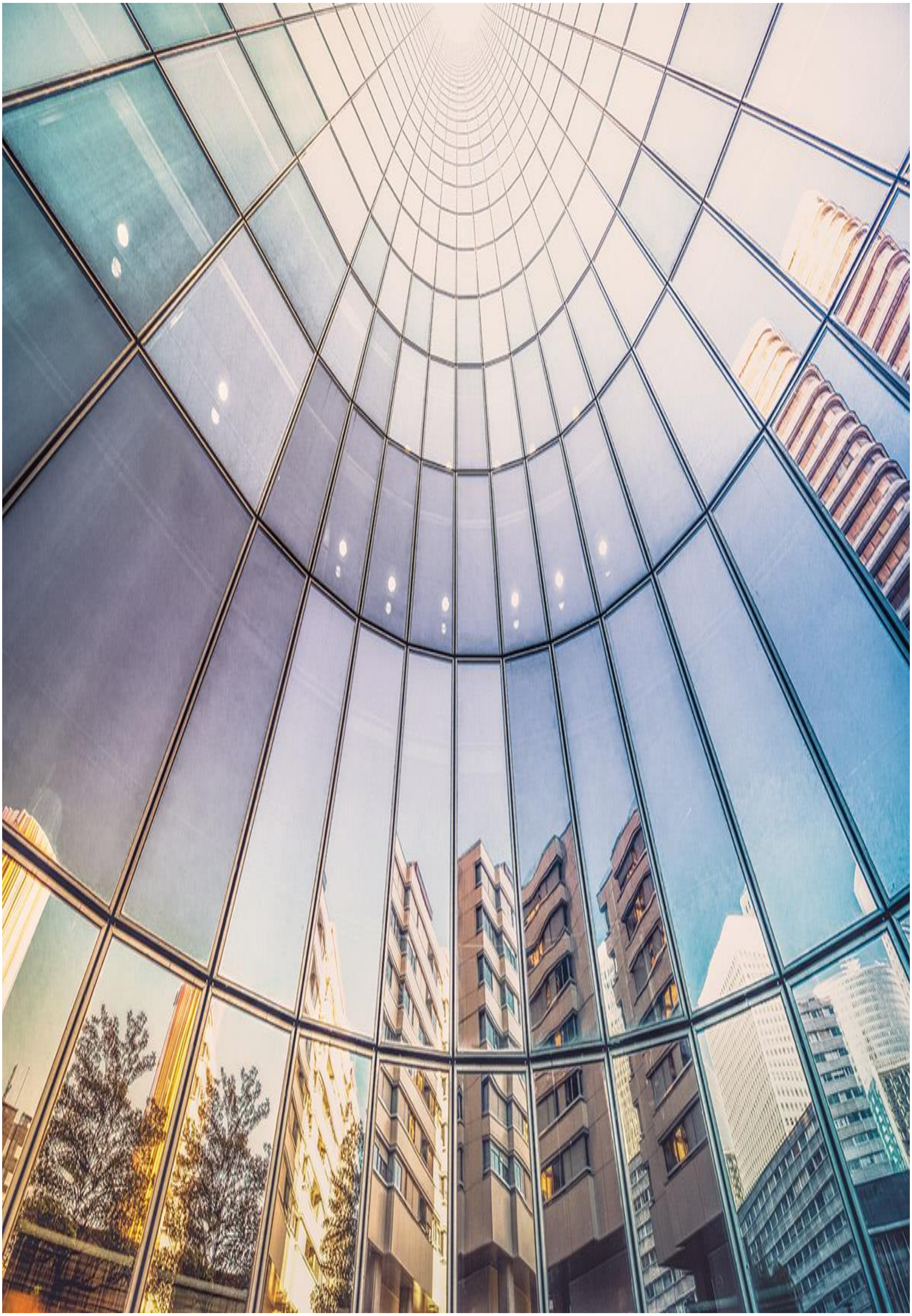
2. Main points

- **General aspects**. The PRA proposes to introduce two complementary expectations on the level of IRB UK mortgage risk weights, as all mortgage lending comes with a degree of risk. The PRA considers models delivering risk weights below these levels are likely to be materially deficient in risk capture. The PRA therefore proposes the following measures:
  - A risk weight of at least 7% for each individual UK residential mortgage exposure. This proposal is a simple, targeted, and efficient measure to encourage all IRB UK mortgage lending to be appropriately risk-weighted and capitalised, and would address any potential for deficiency in risk capture by IRB mortgage models.
  - An exposure-weighted average risk weight of at least 10% for all UK residential mortgage exposures to which a firm applies the IRB approach. The PRA considers that, at a portfolio level, this proposal represents a minimum level below which an IRB mortgage model is likely to be materially deficient in risk capture. The PRA recognises that firms' IRB models and risk management practices can support risk-sensitive lending at lower risk weights than those set under the finalised Basel III post-crisis SA approach level of 20%. However, the PRA considers that average IRB UK mortgage lending should not fall below half of the lowest future individual SA mortgage risk weight (20%).

  Both proposals would apply at all levels of consolidation, and cover all UK residential mortgage exposures.
- **Areas of concern**. Calculating IRB mortgage risk weights is inherently uncertain. Following detailed analysis over recent years, the PRA has identified the following particular areas of concern:
  - There is large variation in IRB risk weights between firms, particularly for low loan-to-value (LTV) mortgages, including variation between loans with similar LTVs.
  - Average UK IRB mortgage risk weights, including at low LTVs, are below international peers.
  - Risk weights for low LTV mortgages can be difficult to calibrate due to limited historical experiences of either extreme house price falls or the varying effects different types of economic downturn might have.
  - A minimum risk weight of 35% is currently applied to residential mortgages under the SA. This will reduce to 20% under the finalised Basel III post-crisis reforms for low LTV mortgages.
  - IRB mortgage risk weights have been falling for a number of years and it is unclear whether the trend will continue in the short term given the global pandemic.

3. Next steps

- Comments to this CP can be submitted until **30 January 2021**.
- The PRA proposes that the final policy resulting from this CP would take effect from **1 January 2022** alongside other



FRTB REGULATION

[(13/01/2020) EBA – Consultation Paper on draft RTS on the treatment of non-trading book positions subject to foreign-exchange risk or commodity risk]

The EBA has published a Consultation Paper (CP) on draft Regulatory Technical Standards (RTS) on how institutions should calculate the own funds requirements for market risk for their non-trading book positions that are subject to foreign-exchange risk or commodity risk under the FRTB standardised and internal model approaches. The draft standards specify the value of non-trading book positions that institutions should use when computing the own funds requirements for market risk for those positions, and also require to reflect on a daily basis the changes in the foreign-exchange component. In addition, the draft requires institutions to model directly the risk of impairment due to changes in the relevant exchange rate in the case of an internal model approach being used.

DIVIDEND POLICIES

(17/01/2020) ECB – Recommendation on dividend distribution policies

The European Central Bank (ECB) has published a recommendation on dividend distribution policies with the objective of establishing a conservative distribution policy that sets an adequate risk management and sound banking system. In particular, this recommendation pretends to satisfy the applicable capital requirements and the outcomes of the supervisory review and evaluation process (SREP). Also, it is established that categories 1 and 2 of credit institutions should distribute their net profits in dividends (with some limitations for the second category), while category 3 institutions should in principle not distribute any dividend.

LIQUIDITY AND FUNDING RISKS

(02/03/2020) PRA – Liquidity: The PRA's approach to supervising liquidity and funding risks

The PRA has published a Policy Statement (PS) which provides feedback to responses to the CP on “Liquidity: The PRA’s approach to supervising liquidity and funding risks” and stablishes the final policy based on this document. In particular, the policy set out in this PS has been designed in the context of the UK’s withdrawal from the EU and entry into the transition period, during which time the UK remains subject to European law.

CAPITAL FORMATION

(04/03/2020) SEC – Proposed Rule: Facilitating Capital Formation and Expanding Investment Opportunities by Improving Access to Capital in Private Markets

The Securities and Exchange Commission (SEC) has published a Proposed Rule on Facilitating Capital Formation and Expanding Investment Opportunities by Improving Access to Capital in Private Markets in order to facilitate capital formation and increase opportunities for investors by expanding access to capital for entrepreneurs across the United States. Specifically, the proposed amendments would simplify, harmonize, and improve certain aspects of the exempt offering framework to promote capital formation while preserving or enhancing important investor protections. Furthermore, the proposed amendments seek to address gaps and complexities in the exempt offering framework that may impede access to investment opportunities for investors and Access to capital for issuers.

IRB APPROACH

(17/04/2020) EBA – Opinion on amendments to standards on risk weights to specialised lending exposures

The EBA has published an Opinion in response to the European Commission’s (EC) intention to amend thethe EBA’s final draft regulatory technical standards (RTS) on assigning risk weights to specialised lending exposures, in order to harmonised regulatory framework. The EBA’s Opinion identifies three substantive changes introduced by EC. The first two changes allow a certain flexibility in relation to the incorporation of risk drivers, and the third one simplifies the rules on overlapping criteria at the level of the sub-factor or of the sub-factor components. EBA`s view is that the proposed changes do not alter the draft RTS in a significant manner, as they still maintain a good balance between the flexibility and risk sensitivity required for the IRB approach.

Other publications of interest

Capital, liquidity and leverage

Capital and liquidity

(20/04/2020) PRA – Q&A on the usability of liquidity and capital buffers

The Prudential Regulation Authority (PRA) has published a set of Q&A on the usability of liquidity and capital buffers and their operation as set out in the PRA rules and guidelines and in response to the Covid-19 outbreak. The goal of this publication is to solve the doubts of the stakeholders, specially all firms to which the Capital Requirements Directive (CRD) IV applies. Among the questions stand out questions such as "what is a liquidity buffer", "what is a capital buffer", "what is the expected period banks will have to restore buffers" or "what are the implications for a bank of using its capital buffers".

LCR

(06/05/2020) EBA – Updated Liquidity Coverage Ratio tool

The EBA has published the updated calculation tool of the liquidity coverage ratio (LCR) with the aim to provide additional support for reporting institutions. In particular, this excel-based tool takes into account the amendments in the liquidity coverage requirement introduced by Commission Delegated Regulation (EU) 2018/1620 that applies from 30 April 2020.

CRR

(27/05/2020) EBA – EBA issues Opinion on measures to address macroprudential risk following notification by French High Council for Financial Stability (HCSF)

The European Banking Authority (EBA) has published an Opinion following the notification by the French macroprudential authority, the Haut Conseil de Stabilité Financière (HCSF), of its intention to extend a measure introduced in 2018 on the use of Article 458(9) of the Capital Requirements Regulation (CRR) to safeguard institutions from excessive risk-taking and to prevent the build-up of future vulnerabilities. The measure intends to tighten the large-exposure limits applicable to large and highly indebted non-financial corporations (NFCs) resident in France or groups of connected NFCs assessed to be highly indebted and based in France. Based on the evidence submitted, the EBA does not object to the extension of the proposed measure, which will be applied from 1 July 2020 to 30 June 2021.

Solvency II

(30/06/2020) PRA – Solvency II technical information: The PRA's proposed approach to the publication at the end of the transition period

The PRA has published a consultation paper (CP) that sets out the approach to take to the publication of Solvency II technical information (TI) after the end of the transition period (TP). The proposals included in this CP, which would apply at the end of the TP, are: i) the PRA's published TI would be derived by adopting the same technical methodologies embodied within the European Insurance and Occupational Pensions Authority's (EIOPA's) TI as at the end of the TP, with some limited exceptions; ii) the criteria that the PRA would use to determine the PRA relevant currencies to publish; iii) the PRA's approach to determining VA reference portfolios; and iv) the publication of TI on the PRA website.

CRR "Quick Fix"

(30/06/2020) PRA – Statement by the PRA on the CRR 'Quick Fix' package

The Prudential Regulation Authority (PRA) has released an statement on the CRR 'Quick Fix' to respond to the COVID-19 pandemic. In accordance with the EU Act, the CRR 'Quick Fix' applies directly to PRA-regulated firms. This statement sets out the PRA's initial views on the following measures included in the package: i) transitional arrangements for capital impact of IFRS 9 Expected Credit Loss (ECL) accounting; ii) acceleration of the date of application of certain CRR II measures that had been due to apply from Monday 28 June 2021; and iii) discretion to apply a temporary prudential filter to certain unrealised gains or losses measured at fair value through other comprehensive income.

Solvency II

(04/07/2020) PRA – Solvency II: The PRA's expectations for the work of external auditors on the matching adjustment

The PRA (Prudential Regulation Authority) has published the Supervisory Statement 7/17, which sets out its expectations in respect of the reporting of sensitivities of solvency position to various changes in market conditions. The firms in scope are those insurance or reinsurance firms most exposed to market risks. These are primarily Category 1 and 2 firms in the life sector, and any other category life firm or general insurance firm, or composite insurance firm that demonstrates material market risk exposures. The PRA will inform firms individually through their usual supervisory contacts whether they fall within the scope outlined above. A firm that has not been contacted but would like to submit the information may do so after discussion with its supervisory. The information requested will enable the PRA to understand how a firm's financial situation, and through extrapolation that of the sector as a whole, might alter in a stressed scenario. The PRA expects firms in scope to report sensitivities to various changes in market risks half-yearly, four weeks after the formal submission of solo quarterly Quantitative Reporting Templates for end June and end December.

Basel III

(06/07/2020) BCBS – Eighteenth progress report on adoption of the Basel regulatory framework

The BCBS has published the eighteenth progress report on adoption of the Basel regulatory framework. This report focuses on the status of adoption of all the Basel III standards, including the finalised Basel III post-crisis reforms published in December 2017 and the finalised minimum capital requirements for market risk in January 2019, to ensure that they are transposed into national law or regulation according to the internationally agreed time frames. The report is based on information provided by individual members as part of the Committee's Regulatory Consistency Assessment Programme (RCAP). The report includes the status of adoption of the Basel III risk-based capital standards, the leverage ratio, the standards for global and domestic systemically important banks (SIBs) and interest rate risk in the banking book (IRRBB), the Net Stable Funding Ratio (NSFR), the large exposures framework and the disclosure requirements.

CVA

(08/07/2020) BCBS – Targeted revisions to the credit valuation adjustment risk framework

The BCBS has published an updated standard for the regulatory capital treatment of credit valuation adjustment (CVA) risk for derivatives and securities financing transactions. The revisions for the regulatory capital treatment of CVA risk include: i) recalibrated risk weights; ii) different treatment of certain client cleared derivatives; and iii) an overall recalibration of the standardised and basic approach. However, the multiplier mCVA has remained at 1 in the final version. The revised standard comes into effect on 1 January 2023.

Dividends

(28/07/2020) ECB/BdE/PRA –ECB extends recommendation not to pay dividends until January 2021 and clarifies timeline to restore buffers / El Banco de España extiende a las entidades menos significativas bajo su supervisión directa la recomendación del BCE sobre distribución de beneficios y retribución variable / PRA statement on dividend payments and share buybacks beyond 2020

The European Central Bank (ECB) has extended its recommendation to banks on dividend distributions and share buy-backs until 1 January 2021 and asked banks to be extremely moderate with regard to variable remuneration. It also clarified that it will give enough time for banks to replenish their capital and liquidity buffers in order not to act pro-cyclically. Following this recommendation, the Bank of Spain (BoS) has extended the ECB's recommendation to the less significant institutions under its direct supervision. Furthermore, the PRA has announced that it will undertake its assessment of firms' distribution plans beyond the end of 2020 in Quarter 4 2020.

Solvency II

(30/07/2020) PRA – Solvency II: The PRA's expectations for the work of external auditors on the matching adjustment

The PRA has published Consultation Paper 11/20 on Solvency II. This consultation paper sets out the PRA's proposed expectations and guidance relating to auditors' work on the matching adjustment (MA). The PRA also proposes several new expectations that relate to the communication by auditors on the subject of the MA. This CP is relevant to UK Solvency II firms (including mutuals) that have approval to make use of the MA, especially those that are subject to an audit requirement in respect of their Solvency and Financial Condition Report (SFCR). The purpose of these proposals is to clarify the current requirements for auditors in relation to the MA and increase transparency on the respective roles of auditors and the PRA.

Other publications of interest

Capital, liquidity and leverage

Solvency II

[(31/07/2020) EIOPA – EIOPA launches its Solvency II Single Rulebook]

The European Insurance and Occupational Pensions Authority (EIOPA) has launched its first Single Rulebook which is an online tool focused on Solvency II that further promotes the consistent implementation of the regulatory framework for insurance supervision. The main benefit of the Single Rulebook is that enables the navigation across different legal acts such as the Directive, Delegated and Implementing Regulation, as well as EIOPA Guidelines, Recommendations, Opinions and Supervisory Standards. This aim of this tool is to improve the understanding of the applicable rules, and at the same time to promote the European internal market.

Operational resilience and risk

(06/08/2020) BCBS – Principles for operational resilience

The Basel Committee on Banking Supervision (BCBS) has published the consultative document on Principles for operational resilience, which aims at improving the ability of banks to deliver critical operations through disruption. This 7 principles also aim to strengthen the ability of banks to withstand events which could cause significant operational failures or wide-scale disruptions in financial markets, such as pandemics, cyber incidents, technology failures or natural disasters. Each of the principles intends to cover one of the following areas: i) governance; ii) operational risk management; iii) business continuity planning and testing; iv) mapping interconnections and interdependencies; v) third-party dependency management; vi) incident management; and vii) information and communication technology (ICT), including cyber security.

(06/08/2020) BCBS – Revisions to the principles for the sound management of operational risk

The BCBS has published a proposal to modify the principles for the sound management of operational risk, first published in 2003 . This proposal contains changes that will: i) align the principles with the recently finalised Basel III operational risk framework; ii) update the guidance where needed in the areas of change management and information and communication technologies; and iii) enhance the overall clarity of the principles.

Capital requirements

(10/08/2020) Fed – Federal Reserve Board announces individual large bank capital requirements, which will be effective on October 1

The Fed has announced individual large bank capital requirements which will be effective on October 1. Under its framework for large banks capital requirements are in part determined by stress test results, which provide a risk-sensitive and forward-looking assessment of capital needs. The Fed provides a table that sets for each bank: i) the Minimum Common Equity Tier 1 (CET1) Capital Ratio; ii) the Stress Capital Buffer; iii) the GSIB Surcharge; and iv) the CET1 Capital Requirement

IMA

(12/08/2020) EBA – EBA consults on Guidelines on criteria for the use of data inputs in the expected shortfall risk measure under the Internal Model Approach

The EBA has launched a consultation on draft Guidelines on criteria for the use of data inputs in the risk-measurement model referred to in CRR under the Internal Model Approach (IMA) for market risk. In particular, these Guidelines clarify that the data used to compute the expected shortfall risk measure should be: i) accurate; ii) appropriate; iii) frequently updated; and iv) complete and overall consistent in its use in the expected shortfall risk measure.

Capital rule

(26/08/2020) Fed/FDIC/OCC – Final Rule on the CBLR Transition Adjustments / Final Rule on the Definition of Eligible Retained Income in the Capital Rule / Final Rule on the Revised CECL Transition in the Capital Rule

The Federal Reserve (Fed), the Federal Deposit Insurance Corporation (FDIC) and the Office of the Comptroller of the Currency (OCC) have issued three final rules: i) a final rule that temporarily modifies the community bank leverage ratio, as required by the Coronavirus Aid, Relief, and Economic Security (CARES) Act; ii) a final rule that makes more gradual the automatic restrictions on distributions if a banking organization’s capital levels decline below certain levels; and iii) a final rule that allows institutions that adopt the current expected credit losses (CECL) accounting standard in 2020 to mitigate the estimated effects of CECL on regulatory capital for two years.

Central Risk Information

[(17/09/2020) BdE – Consulta pública previa del proyecto de circular por la que se modifica la Circular 1/2013, de 24 de mayo, sobre la Central de Información de Riesgos]

The Bank of Spain (BdE) has published a public consultation to obtain, either directly or through its representative associations, the opinion of people and institutions potentially affected by Order ETD/699/2020 of 24 July on the regulation of revolving credit, published in the BOE on 28 July and which will generally come into force on 2 January 2021. This incorporates a series of modifications to the Central Risk Information (CIR), making it necessary to modify Circular 1/2013.

CRR/CRD

[(18/09/2020) EBA – EBA flags to the EU Commission elements of the definition of credit institution and aspects of the scope of authorization]

The EBA has published an Opinion addressed to the EC to raise awareness as to the opportunity to clarify certain issues relating to the definition of credit institution in the upcoming review of the CRR and Capital Requirements Directive (CRD). Such clarifications would be beneficial to the development of a truly uniform Single Rulebook and ultimately to a deeper market integration of banking and financial services across the EU. This Opinion raises two additional points relating to a) divergent approaches as to the scope of the authorisation; and b) the kind and extent to which commercial activities may be carried out by credit institutions.

Securitisations

[(23/09/2020) ECB – Opinion on proposals for regulations amending the Union securitisation framework in response to the COVID-19 pandemic (CON/2020/22).]

The ECB has released an Opinion that supports the EC's proposed regulations which contain targeted amendments to the EU securitisation framework with the aim of facilitating the use of securitisation in the EU's recovery through two measures: i) the introduction of a framework for simple, transparent and standardized (STS); and ii) the removal of regulatory obstacles to the securitisation of non-performing exposures (NPEs). In line with the previous ECB Opinion, the ECB remains of the view that directly ensuring the compliance of significant credit institutions acting as originators, sponsors or original lenders with risk retention rules should be viewed as primarily relating to supervision of product markets. The same applies to the rules relating to the ban on resecuritisation.

Leverage Ratio

[(02/10/2020) BdE– El Banco de España determina que se dan circunstancias excepcionales para la exclusión temporal de determinadas exposiciones en la ratio de apalancamiento]

The Executive Board of the Banco de España (BdE) has determined the existence of exceptional macroeconomic circumstances, as referred to in Article 500b of Regulation 575/2013 (CRR), which justify the exclusion of certain exposures to the Eurosystem central banks by less significant Spanish credit institutions from the total exposure (denominator) of the leverage ratio. In particular, they may exclude: i) coins and banknotes which are legal tender in the jurisdiction of the central bank; and ii) assets representing claims on the central bank, including its reserves. In respect of the latter assets, the exclusion may only cover exposures which the European Central Bank has identified as being relevant for the purposes of monetary policy. Less significant Spanish credit institutions will be able to make use of this exclusion until 27 June 2021.

IRB

[(12/10/2020) PRA – Credit risk: The approach to overseas Internal Ratings Based (IRB) models]

The Prudential Regulation Authority (PRA) has published a Consultation Paper (CP) which sets out the proposals to approach in respect of firms' use of overseas Internal Ratings Based (IRB) credit risk models built to non-UK regulatory requirements, in the calculation of UK group consolidated capital requirements. The proposals are relevant to UK banks, building societies and PRA-designated UK investment firms. For overseas IRB models built to non-UK requirements that are not currently used for UK consolidated capital requirements, the proposed implementation date for the changes resulting from this CP would be Thursday 1 July 2021.

Other publications of interest

Capital, liquidity and leverage

LCR

(28/10/2020) Fed/FDIC/OCC – Treatment of Certain Emergency Facilities in the Regulatory Capital Rule and the Liquidity Coverage Ratio Rule

The OCC, the Fed, and the FDIC are adopting as final the revisions to the regulatory capital rule and the liquidity coverage ratio (LCR) rule made under three interim final rules published in the Federal Register on the last months. The Agencies are adopting these interim final rules as final with no changes. Under this final rule, banking organizations may continue to neutralize the regulatory capital effects of participating in the Money Market Mutual Fund Liquidity Facility (MMLF) and the Paycheck Protection Program Liquidity Facility (PPPLF).

Operational Resilience

(30/10/2020) Fed/FDIC/OCC – Agencies release paper on operational resilience

The Agencies have released the paper "Sound Practices to Strengthen Operational Resilience" outlining sound practices designed to help large banks increase operational resilience. Examples of risks to operational resilience include cyberattacks, natural disasters, and pandemics. The paper outlines practices to increase operational resilience that are drawn from existing regulations, guidance, statements, and common industry standards. The practices are for domestic banks with more than $250 billion in total consolidated assets or banks with more than $100 billion in total assets and other risk characteristics.

Capital private markets

(02/11/2020) SEC – Facilitating Capital Formation and Expanding Investment Opportunities by Improving Access to Capital in Private Markets

The Securities and Exchange Comission (SEC) has published a Final Rule where different amendments have been adopted. The aim of these amendments are to facilitate capital formation and increase opportunities for investors by expanding access to capital for small and medium-sized businesses and entrepreneurs across the United States. Specifically, the amendments simplify, harmonize, and improve certain aspects of the exempt offering framework to promote capital formation while preserving or enhancing important investor protections. The amendments also seek to close gaps and reduce complexities in the exempt offering framework that may impede access to investment opportunities for investors and access to capital for businesses and entrepreneurs.

Funds Management

(13/11/2020) ESMA - ESMA tells fund managers to improve readiness for future adverse shocks

The ESMA has published a Report on the preparedness of investment funds with significant exposures to corporate debt and real estate assets, for potential future adverse liquidity and valuation shocks. The Report identifies five priority areas for action which would enhance the preparedness of these fund categories and relate to the following topics: i) ongoing supervision of the alignment of the funds' investment strategy, liquidity profile and redemption policy; ii) ongoing supervision of liquidity risk assessment; iii) fund liquidity profile reporting; iv) increase of the availability and use of liquidity management tools (LMT); and v) supervision of valuation processes in a context of valuation uncertainty.

CRD V / BRRD II

(13/11/2020) BoE- Statement on the application of the temporary transitional power to CRD V and BRRD II derived legislation

The Bank of England (BoE) has published an Statement on the application of the temporary transitional power (TTP) to CRD V and BRRD II derived legislation. This statement confirms that no additional exceptions from the application of the transitional temporary power are expected to be required in relation to onshoring changes to new rules and legislation implementing CRD V and BRRD II. This means that the TTP will apply to the small number of 'relevant obligations' which are changed by onshoring amendments made to CRD V and BRRD II derived legislation at the end of the transition period.

LCR

(19/11/2020) EBA - EBA analyses effect of the unwind mechanism of the liquidity coverage ratio

The EBA has published a Report on the effects of the unwind mechanism of the liquidity coverage ratio (LCR) over a three-year period, from the end of 2016 to the first quarter of 2020. The analysis is based on common reporting (COREP) data covering a sample of about 120 credit institutions in each year, representative of the 26 EU Member States and 2 EEA/EFTA states. Overall, the empirical evidence does not support the hypothesis that the unwind mechanism has a detrimental impact on the business and risk profile of credit institutions.

Solvency II

(02/12/2020) PRA - Solvency II technical information: The PRA's proposed approach to the publication at the end of the transition period / The PRA's approach to the publication of Solvency II technical information

The Prudential Regulation Authority (PRA) has released its Policy Statement 24/20 (PS24/20) which provides feedback to responses to Consultation Paper (CP) 5/20 on Solvency II technical information, at the end of the transition period. It also contains the PRA's final policy in Statement of Policy (SoP) about PRA's approach to the publication of Solvency II technical information. The PRA is required to publish technical information necessary for the valuation of insurance liabilities for each relevant currency. This SoP explains how the PRA will fulfil its obligations in this regard.

G-SIBs and Capital

(02/12/2020) BdE - El Banco de España actualiza la lista de las entidades sistémicas y establece sus colchones de capital macroprudenciales

The Bank of Spain (BoS) has carried out the annual review of the designations of global systemically important banks (G-SIBs) for 2022 and other systemically important institutions (O-SIIS) for 2021, establishing their associated capital buffers. These macro-prudential requirements aim to correct the possible competitive advantage that these institutions may have in the financing market due to their systemic relevance and to adapt their risk taking. In addition, the capital buffers help to strengthen the solvency of these institutions and to mitigate the adverse effects that they may have on the financial system at the global or national level.

STS securitisations

(07/12/2020) ESAS – Highlight the change in the status of Simple, Transparent and Standardised (STS) securitisation transactions at the end of the UK transition period / EBA informs customers of UK financial institutions about the end of the Brexit transition period

The Joint Committee of the European Supervisory Authorities (ESAs) wish to highlight the impact in the change of status of 'Simple, Transparent and Standardised' (STS) securitisation transactions after the end of the Brexit's Transition Period on 31 December 2020. Those "STS securitisations" will lose the STS status where one or all the securitisation parties are established in the UK after the end of the transition period. In addition, at the end of the Transition Period, EU law will stop to apply in the UK and UK financial institutions not holding a valid authorisation from the supervisory authorities in the EU will lose the right to provide financial services in the EU.

Leverage ratio

(10/12/2020) BoE - Additional Leverage Ratio Buffer Model Requirements

The Bank of England (BoE) has published Leverage Voluntary Requirements (VREQ) applications for global systematically important institutions (G-SIIs) and institutions subject to a systemic risk buffer (SRB). This document includes: i) definitions; ii) G-SIIs and SRB additional leverage ratio buffer; iii) level of application of the G-SII and SRB additional leverage ratio buffer; and iv) reporting and disclosure.

Risk weight

(16/12/2020) EBA – EBA consults on technical standards to calculate risk weight of collective investment undertakings

The EBA has published a consultation on Regulatory Technical Standards (RTS) on the calculation of risk-weighted exposure amounts of collective investment undertakings (CIUs) in line with the Capital Requirements Regulation (CRR). The proposed draft RTS, which will contribute to the calculation of own funds requirements for the exposures in the form of units or shares in CIUs under the Standardised Approach for credit risk, clarify the regulatory treatment for missing inputs when the underlying risk of derivatives is unknown and for the computation of the exposure value for counterparty credit risk.

Solvency II

(16/12/2020) EIOPA – EIOPA updates representative portfolios to calculate volatility adjustments to the Solvency II risk-free interest rate term structures for 2021

The EIOPA has updated representative portfolios that will be used for calculation of the volatility adjustments (VA) to the relevant risk-free interest rate term structures for Solvency II. The EIOPA will start using these updated representative portfolios for the calculation of the VA end of March 2021, which will be published at the beginning of April 2021.

Other publications of interest

Capital, liquidity and leverage

Liquidity

(17/12/2020) EBA – EBA updates its Report on liquidity measures and confirms banks' solid liquidity position

The EBA has published its Report on liquidity measures, which monitors and evaluates the liquidity coverage requirements currently in place in the EU. The liquidity coverage ratio (LCR) of EU banks stood at around 166% in June 2020, materially above the minimum threshold of 100%. The Report shows that EU banks have continued to improve their LCR.

Leverage risk

(17/12/2020) ESMA – ESMA publishes final guidance to address leverage risk in the AIF sector

The ESMA has published its final guidance to address leverage risks in the Alternative Investment Fund (AIF) sector. This guidelines set out common criteria in order to promote convergence in the way National Competent Authorities (NCAs): i) assess the extent to which the use of leverage within the AIF sector contributes to the build-up of systemic risk in the financial system; and ii) design, calibrate and implement leverage limits.

Capital Buffer

(21/12/2020) BdE/Fed – El Banco de España mantiene el colchón de capital anticíclico en el 0% / Federal Reserve Board votes to affirm the Counter cyclical Capital Buffer (CCyB) at the current level of 0 percent

The Banco de España (BdE) has decided to maintain the percentage of the Countercyclical Capital Buffer (CCyB) applicable to credit exposures in Spain at 0% during the first quarter of 2021. The same measure has also been taken by the Federal Reserve Board (Fed). Furthermore, the BoE has confirmed its forward-looking orientation not to increase the CCyB percentage during the coming quarters, and the Fed has decided that in the event of a change in the amount of CCyB in the future, banking organisations would have 12 months before the increase took effect.

Leverage Ratio

(28/12/2020) PRA – The UK leverage ratio framework

The PRA has published the Supervisory Statement on the UK leverage ratio framework which is aimed at Capital Requirements Regulation (CRR).The purpose of this Statement is to set out the expectations of the PRA on leverage ratio buffers and the reporting and disclosure of an averaged leverage ratio, as well as to provide some clarification on the PRA rules.

Capital Buffers

(28/12/2020) PRA – The PRA's approach to identifying other systemically important institutions (O-SIIs)/ The PRA's approach to the implementation of the O-SII buffer/ Implementing CRD: Capital buffers

The PRA has published a Policy Statement (PS) which sets out the criteria and scoring methodology that the PRA uses to identify other systemically important institutions (O-SIIs). Furthermore, the PRA has published another PS referred to the PRA´s approach to the implementation of the other systemically important institutions (O-SII) buffer, and prior to that, the systemic risk buffer (SRB). Finally in the PRA has published its proposals for implementing the Capital Requirements Directive (CRD IV) provisions on capital buffers.

MREL

(30/12/2020) PRA – The minimum requirement for own funds and eligible liabilities (MREL) - buffers and Threshold Conditions

The PRA has published the Supervisory Statement on the minimum requirement for own funds and eligible liabilities (MREL) which sets out the PRA's expectations on the relationship between the MREL and both capital and leverage ratio buffers, as well as the implications that a breach of MREL would have for the PRA's consideration of whether a firm is failing, or likely to fail, to satisfy the Threshold Conditions.

IFRS

(16/07/2020) IASB – IASB proposes changes to the IFRS Taxonomy to reflect amendments to IFRS 17, IFRS 4 and IAS 16

The International Accounting Standards Board (IASB) has published a proposed update to the IFRS Taxonomy 2020 to reflect recent amendments to IFRS Standards. The proposed changes reflect amendments to: i) the new and old insurance contracts Standard, IFRS 17 and IFRS 4, issued in June 2020; and ii) IAS 16, issued in May 2020. The deadline for submitting comments is 14 September 2020.

Other publications of interest

Supervision

SUPERVISORY STATISTICS

(22/01/2020) BdE – Estadísticas supervisoras de las entidades de crédito correspondientes al tercer trimestre de 2019

The Banco de España (BoS) has published the Q3 2019 supervisory statistics for credit institutions, which show aggregate information on the balance sheet, income statement and other information on profitability, asset quality and solvency, for all credit institutions operating in Spain. In particular, in Q3 2019 the capital ratio increased to 15.67% (compared to 15.64% in Q2 2019), the non-performing loans ratio fell to 3.37%, its lowest level since Q2 2015, and the liquidity hedging ratio fell to 165.23%.

COMMON SUPERVISORY ACTION

(30/01/2020) ESMA – Common supervisory action with NCAs on UCITs liquidity risk management

The European Securities and Markets Authority (ESMA) has launched a Common Supervisory Action (CSA) with national competent authorities (NCAs) on the supervision of Undertakings for Collective Investment in Transferable Securities (UCITS) managers liquidity risk management across the European Union (EU) with the goal of ensuring financial stability, investor protection and the orderly functioning of financial markets. In order to do that, ESMA and NCAs together will develop the CSA assessment framework, including scope, methodology, supervisory expectations and timeline. Furthermore, the CSA will be conducted during 2020.

STRESS TEST

(06/02/2020) Fed/OCC - 2020 Supervisory Scenarios for Annual Stress Tests Required under the Dodd-Frank Act Stress Testing Rules and the Capital Plan Rule

The Fed and the OCC have published the 2020 Supervisory Scenarios for Annual Stress Tests required under the Dodd-Frank Act Stress Testing Rules (DFAST) and the Capital Plan Rule. The goal is to ensure that large bank holding companies operating in the USA will be able to lend to households and businesses even in a severe recession. This publication describes the two supervisory scenarios, baseline and severely adverse, that the Fed will use in its supervisory stress tests this year.

INSURANCE AND REINSURANCE SECTOR

(07/04/2020) EIOPA – Opinion on the supervision of remuneration principles in the insurance and reinsurance sector

The European Insurance and Occupational Pensions Authority (EIOPA) has published an Opinion on the supervision of remuneration principles in the insurance and reinsurance sector that addresses how to ensure consistent practices in the application of the remuneration principles included in Solvency II. In particular, this Opinion gives guidance to national supervisory authorities on how to challenge the application of certain principles, and to promote a proportionate approach, it focuses on those staff identified as potential higher profile risk-takers and so avoiding create further administrative burden. Furthermore, this Opinion supports the convergence of national supervisory practices and contribute to a smooth functioning of the internal market.

SUPERVISORY STATISTICS

(14/04/2020) BoS – Estadísticas supervisoras de las entidades de crédito correspondientes al cuarto trimestre de 2019

The BoS has published supervisory statistics on credit institutions for the fourth quarter of 2019. In particular, these statistics reveal that: i) the capital ratios of credit institutions operating in Spain increased in the fourth quarter of 2019 to 15.95%; ii) the ratio of non-performing loans fell to 3.14%, and iii) the liquidity coverage ratio fell to 164.84%.

APM

(17/04/2020) ESMA – New Q&A on Alternative Performance Measures in the context of COVID-19

The ESMA has published a Q&A to provide guidance to issuers on the application of the ESMA Guidelines on Alternative Performance Measures (APM) in the context of the COVID-19 pandemic with the aim of promoting common supervisory approaches and practices in the application of the ESMA Guidelines on APMs. The Q&A highlights the main principles of the APM Guidelines. ESMA will review these questions and answers to identify if, in a certain area, there is a need to convert some of the material into ESMA guidelines and recommendations.

Peer Reviews

(05/06/2020) ESMA – Peer review methodology

The ESMA has published the Peer review methodology which sets out the methods and tools to conduct peer reviews of NCAs. The new methodology provides for the set-up of ad hoc Peer Review Committees chaired by ESMA staff and the introduction of fast-track peer reviews to be launched in case of an urgent convergence issue. The Methodology is divided in 5 titles: i) the first title provides an overview of the peer review framework and process; ii) the second title relates to the determination of topics for peer reviews; iii) the third describes the peer review process; iv) the fourth title relates to the framework for the follow-up to peer reviews; and v) the fifth title describes the fast track peer reviews.

AML / CFT Directive

(11/06/2020) ECA – EU action against money laundering in the banking sector to go under auditor scrutiny

The European Court of Auditors has released a note where it points out that despite extensive international cooperation and increasingly sophisticated EU legislation, money laundering remains a huge policy challenge. The auditors will focus on the transfer of EU legislation into Member State law, how risks to the internal market are managed, co-ordination between national supervisors and EU bodies, and the EU's action to remedy breaches of its AML law at national level. The fieldwork for this audit will address the European Commission's Directorate-General for Financial Stability, Financial Services and Capital Markets Union, the EBA and the European Central Bank (ECB).

Examinations for banks

(15/06/2020) Fed – Federal Reserve Board announces it will resume examination activities for all banks, after previously announcing a reduced focus on exam activity in light of the coronavirus response

The Fed announced that it will resume examination activities for all banks, after previously announcing a reduced focus on exam activity in light of the coronavirus response. In March, the Board announced that it would focus on outreach and monitoring in light of the coronavirus response measures and temporarily reduce its exam activity, with the greatest reduction for smaller banks. Since that time, banks have had time to implement contingency operating plans and adapt their operations, so exam activity will resume. The Fed anticipates that exams will continue to be conducted offsite until conditions improve and will continue to work with banks to understand any specific issues they may be facing.

Insurance stress test

(17/06/2020) PRA – Insurance Stress Test 2019: Feedback for general and life insurers

The PRA has issued a letter sent to participating firms on insurance Stress Test 2019 and Covid-19 stress testing, on feedback for general and life insurers. This letter is divided in four main parts: i) stress testing the industry in relation to Covid-19; ii) insurance stress test 2019 for general insurers; iii) insurance stress test 2019 for life insurers; and iv) insurance stress test 2019 on climate scenarios.

Fraud Detection

(18/06/2020) Fed – Federal Reserve announces FraudClassifier Model to help organizations classify fraud involving payments

The Federal Reserve (Fed) has published the FraudClassifier model, which is a set of tools and materials to help provide a consistent way to classify and better understand the magnitude of fraudulent activity and how it occurs across the payments industry. The key advantage of the FraudClassifier model is the ability for organizations to use it to classify fraud independently of payment type, payment channel or other payment characteristics. The model presents a series of questions, beginning with who initiated the payment to differentiate payments initiated by authorized or unauthorized parties. Each of the classifications is supported by definitions that allow for consistent application of the FraudClassifier model across the industry.

RSR

(18/06/2020) EIOPA – Results of the Peer Review on the Regular Supervisory Report (RSR)

The EIOPA has published the findings of its peer review of the Regular Supervisory Report (RSR). The peer review examined how and to what extent the proportionate approach set out under the Delegated Regulation has been implemented among national competent authorities (NCAs). It also aims to determine if further convergence is needed on the frequency of submission of RSRs. In the peer review, EIOPA analysed legal and regulatory frameworks and national supervisory practices across 31 NCAs in relation to decisions on the frequency of submission of the RSR, and the communication of those decisions to undertakings.

Other publications of interest

Supervision

Methodological Principles of Insurance stress test

[(24/06/2020) EIOPA – Second Discussion Paper on Methodological Principles of Insurance Stress Testing / First Discussion Paper]

The European Insurance and Occupational Pensions Authority (EIOPA) has published its second Discussion Paper on Methodological Principles of Insurance Stress Testing. In 2019 EIOPA initiated a process of enhancing its methodology for bottom-up stress testing which resulted in the first Methodological Paper setting out the methodological principles of insurance stress testing. The second Discussion Paper is structured in three sections addressing the following topics: i) stress test framework on climate change; ii) approach to liquidity stress testing; and iii) multi-period framework for the bottom-up insurance stress testing. The Discussion Paper is open for comments until Friday, 2 October 2020.

Pillar 2A / ICAAP / SREP

[(06/07/2020) PRA – The Internal Capital Adequacy Assessment Process (ICAAP) and the Supervisory Review and Evaluation Process (SREP)]

The PRA has published supervisory statement SS31/15 which is aimed at firms to which CRD IV applies and replaces PRA SS5/13 and PRA SS6/13. It provides further detail on the high-level expectations outlined in the PRA's approach to banking supervision. The supervisory statement has five chapters, including: i) expectations of firms undertaking an ICAAP; ii) stress testing, scenario analysis and capital planning; iii) reverse stress testing; and iv) the SREP. This supervisory statement should be read in conjunction with the Statement of Policy "The PRA's methodologies for setting Pillar 2 capital".

[(06/07/2020) PRA – PS15/20 Pillar 2A: Reconciling capital requirements and macroprudential buffers]

The PRA has published a policy statement that provides feedback to responses to Consultation Paper 2/20 Pillar 2A: "Reconciling capital requirements and macroprudential buffers". It also contains the PRA's final policy in Supervisory Statement 31/15 "The Internal Capital Adequacy Assessment Process (ICAAP) and the Supervisory Review and Evaluation Process (SREP)". The PRA received 10 responses to the consultation paper but no changes have been made to the proposals as a result of these responses. This policy statement is relevant to PRA-authorised UK banks, building societies and PRA-regulated investment firms.

Non-systemic UK banks

[(22/07/2020) PRA – Non-systemic UK banks: The Prudential Regulation Authority's approach to new and growing banks]

The Prudential Regulation Authority (PRA) has published CP 9/20 which sets out its proposed approach to supervising new and growing, non-systemic UK banks. All the proposals are clarifications of the PRA's current supervisory approach with some exceptions. The proposals in this CP would i) create a new supervisory statement (SS): 'Non-systemic UK Banks: The Prudential Regulation Authority's approach to new and growing banks'; ii) reference to the new SS of Pillar 2 capital policy in SS31/15 'The Internal Capital Adequacy Assessment Process (ICAAP) and the Supervisory Review and Evaluation Process (SREP)'; and iii) reference the new SS of the Statement of Policy (SoP) 'The PRA's methodologies for setting Pillar 2 capital'.

CRD V

[(31/07/2020) PRA – Consultation Paper 12/20 on updates to CRD V]

The Prudential Regulation Authority (PRA) has published consultation paper 12/20 that sets out proposed changes to the PRA's proposed rules, supervisory statements and statements of policy in order to implement elements of the CRD V. This regulation clarifies the application of supervisory requirements and guidance under Pillar 2, adjusts requirements applied to remuneration policies, requires the establishment of intermediate parent undertakings and updates the governance requirements applied to firms.

Supervisory guidance

[(29/10/2020) Fed – Agencies propose regulation on the role of supervisory guidance]

The OCC, Fed, FDIC, NCUA, and CFPB (the Agencies) are inviting comment on a proposed rule that would modify the Interagency Statement Clarifying the Role of Supervisory Guidance issued by the Agencies on 2018. The proposed rule is intended to clarify technical aspects, and confirm that the Agencies will continue to follow and respect the limits of administrative law in carrying out their supervisory responsibilities. The proposal would also clarify that the 2018 Statement, as amended, is binding on the Agencies.

Capital Planning

[(30/09/2020) Fed – Federal Reserve Board invites public comment on proposal that would update the Board's capital planning requirements to be consistent with other Board rules that were recently modified]

The Federal Reserve Board (Fed) has invited public comment on a proposal that would update the Board's capital planning requirements to be consistent with other Board rules that were recently modified. Last year, the Board finalized a framework that sorts large banks into different categories based on their risks, with rules that are tailored to the risks of each category. The proposal updates the Board's capital planning requirements—which help ensure that firms plan for and determine their capital needs under a range of different scenarios—to reflect that new framework.

Creditworthiness

[(12/10/2020) EBA – EBA supports harmonisation of creditworthiness assessment for consumer credit across the EU]

The EBA has responded to the EC's consultation on the proposed new consumer agenda where it called for harmonization of the creditworthiness assessment process for consumer lending across the EU. The EBA response focuses on the revision of the Consumer Credit Directive (CCD) and builds on the recent EBA Guidelines on loan origination and monitoring. In its response the EBA calls for: i) the introduction of binding principles on responsible lending such as an obligation to take into account target consumer interests, objectives and characteristics when designing credit products; and ii) the harmonisation of the creditworthiness assessment across the EU, including the introduction of standards for the data and creditworthiness assessment process.

CCPs

[(23/10/2020) ESMA – ESMA consults on CCP supervisory reviews and evaluation processes]

The ESMA has launched a consultation on guidelines addressing the consistency of supervisory reviews and evaluation processes of CCPs under Article 21 of EMIR. The consultation paper seeks input from all interested stakeholders on draft guidelines aimed at clarifying common procedures and methodologies for the supervisory review and evaluation process of CCPs by their competent authorities. The review and evaluation processes should be conducted in a manner that is appropriate to the size, structure and internal organisation of CCPs, as well as to the nature, scope and complexity of their activities.

AML/CFT

[(04/11/2020) EBA - EBA sets out how prudential supervisors should take money laundering and terrorist financing risks into account in the Supervisory Review and Evaluation Process]

The EBA has published an Opinion setting out how prudential supervisors should consider money laundering and terrorist financing (ML/TF) risks in the context of the Supervisory Review and Evaluation Process (SREP). This Opinion forms part of the EBA's ongoing work to strengthen the fight against ML/FT in Europe. The EBA expects prudential supervisors to cooperate effectively and in a timely manner with AML/CFT supervisors to exchange information on ML/TF risks and to assess the implication of those risks for the safety and soundness of the institution they supervise.

Sistemically Important Institutions

[(04/11/2020) EBA - EBA publishes revised final draft technical standards and Guidelines on methodology and disclosure for global systemically important institutions]

The EBA has published revised final draft regulatory technical standards (RTS) to specify how to identify the indicators of global systemic importance and revised Guidelines on their disclosure. The need for this revision was prompted by the revised framework introduced by the Basel Committee on Banking Supervision (BCBS) in July 2018 to identify global systemically important banks (G-SIBs) as well as by the new requirements laid down in the CRD V, which recognise the importance of cross-border activities within the European Banking Union area.

Outsourcing

[(09/11/2020) FSB - Regulatory and Supervisory Issues Relating to Outsourcing and Third-Party Relationships: Discussion paper]

The Financial Stability Board (FSB) has published a Discussion Paper which considers regulatory and supervisory issues relating to outsourcing and third-party relationships. The discussion paper identifies a number of issues and challenges. For instance, financial institutions have to ensure that their contractual agreements with third parties grant to them, as well as to supervisory and resolution authorities, appropriate rights to access, audit and obtain information from third parties. Also, there is a common concern about the possibility of systemic risk arising from concentration in the provision of some outsourced and third-party services to financial institutions

Other publications of interest

Supervision

IORP II

[(12/11/2020) EIOPA - EIOPA calls for sound supervisory practices in registering or authorising IORPs to foster a evel-playing field across the EU]

The European Insurance and Occupational Pensions Authority (EIOPA) has published its Supervisory Statement on the sound practices within the registration or authorisation process of institutions for occupational retirement provisions (IORP), including as regards suitability for cross-border activity. Competent authorities of home Member States have been reviewing their registration and authorisation procedures with regard to the new requirements of the IORP II Directive. In the context of operating across borders, such divergent approaches could lead to supervisory arbitrage. Achieving supervisory convergence of this practice seeks to avoid this situation and build a level-playing field across the EU conducive to an internal market for IORPs, as well as to ensure adequate protection of the members and beneficiaries.

Supervisory Measures

[(13/11/2020) ESMA - ESMA identifies costs and performance and data quality as new union strategic supervisory priorities]

The European Securities and Markets Authority (ESMA), using its new convergence powers, has identified costs and performance for retail investment products and market data quality as the Union Strategic Supervisory Priorities for national competent authorities (NCAs). Under these Priorities, the specific topics on which NCAs will undertake supervisory action in 2021, coordinated by ESMA, are: i) costs and fees charged by fund managers; and ii) improving the quality of transparency data reported under MiFIR.

Risk Assestment

[(23/11/2020) EBA - The EBA calls on the European Commission to harmonise the significant risk transfer assessment in securitization]

The European Banking Authority (EBA) has published a Report on significant risk transfer (SRT) in securitisation transactions, which includes a set of detailed recommendations to the EC on the harmonisation of practices and processes applicable to the SRT assessment. The EBA proposals aim to enhance the efficiency, consistency and predictability of the supervisory SRT assessment within the current securitisation framework. The SRT Report makes recommendations in three key areas: i) assessment of structural features of securitisation transactions; ii) application of the SRT quantitative tests; iii) supervisory process for assessing SRT in individual transactions.

IRB assessment methodology

[(14/12/2020) EBA - EBA issues Opinion to the European Commission on the proposed amendments to the EBA final draft RTS on IRB assessment methodology]

The EBA has published an Opinion on the amendments proposed by the European Commission as regards the EBA final draft RTS specifying the assessment methodology competent authorities are to follow when assessing the compliance of credit institutions and investment firms with the requirements to use the Internal Ratings Based (IRB) approach laid down in the Capital Requirements Regulation (CRR). These RTS are an important part of the EBA' regulatory review of the IRB approach, as they harmonise the supervisory assessment methodology on the IRB approach across all Member States in the European Union (EU).

Non-bank Financial intermediation

[(16/12/2020) FSB – FSB reports in global trends and risks in non-bank financial intermediation]

The Financial Stability Board (FSB) has published the Global Monitoring Report on Non-Bank Financial Intermediation 2020 which presents the results of its annual FSB monitoring exercise to assess global trends and risks in non-bank financial intermediation (NBFI), covering 29 jurisdictions that account for 80% of global GDP. The annual monitoring exercise focuses particularly on those parts of NBFI that may pose bank-like financial stability risks and/or regulatory arbitrage. The trends described here contribute to an understanding of the backdrop and some of the vulnerabilities that became apparent during the March market turmoil.

STRESS TEST

[(16/12/2020) ESMA – ESMA updates guidelines on stress tests for money market funds]

The ESMA has published the 2020 update of guidelines on stress tests for Money Market Funds (MMF) under the Money Market Funds Regulation (MMFR). In this guidelines it is assessed whether the scenarios envisaged in the existing guidelines, published in 2019, are still appropriate in the current environment, affected by the COVID-19 crisis.

[(18/12/2020) Fed – Federal Reserve Board releases second round of bank stress test results]

The Fed has released this year a second round of bank stress test results this year, which shows that large banks had strong capital levels under two separate hypothetical recessions.. This stress test includes two hypothetical scenarios with severe global recessions. Under both scenarios, large banks would collectively have more than $600 billion in total losses, considerably higher than the first stress test this year. However, their capital ratios would decline from an average starting point of 12.2 percent to 9.6 percent in the more severe scenario, well above the 4.5 percent minimum.

Other publications of interest

Governance

Good Governance Practices

(26/06/2020) CNMV – Código de buen gobierno de las sociedades cotizadas

The Comisión Nacional del Mercado de Valores (CNMV) has approved the partial revision of the Code of Good Governance for Listed Companies, originally published in 2015, which aims to be aligned with the highest international standards. The review updates and adapts several recommendations of the Code to various legal amendments approved since its publication and clarifies the scope of others that had raised certain doubts; it also contains relevant new features in areas such as gender diversity on boards of directors, non-financial information and risks, attention to environmental, social and corporate governance issues, and remuneration.

(26/06/2020) IOSCO – Report Good Practices on Processes for Deference

The IOSCO has published a series of eleven good practices on processes for deference to assist regulatory authorities in mitigating the risk of unintended, regulatory-driven market fragmentation and to strengthen international cooperation. The aim of the eleven Good Practices identified in this report is to help members in establishing and operating efficient deference processes. They are underpinned by the philosophy that deference processes should be outcomes-based, risk-sensitive, transparent, sufficiently flexible and supported by strong cooperation. They cover all phases of the deference process and focus on several key issues.

Management body

(31/07/2020) EBA/ESMA – EBA and ESMA launch consultation to revise joint guidelines for assesing the suitability of members of the management body

The European Banking Authority (EBA) and the European Supervisory Market Authority (ESMA) have launched a public consultation on their revised joint guidelines for assesing the suitability of members of the management body. This review reflects the amendments introduced by CRD V and the Investment Firms Directive (IFD) in relation to the assessment of the suitability of members of the management body. The draft joint guidelines clarify that the knowledge, experience and skill requirements are important aspects in the fit and proper assessment of members of the management body and key function holders as they contribute to identifying, managing and mitigating money laundering and financing of terrorism risks (AML/CFT). The draft joint guidelines also take into account the recovery and resolution framework introduced by the BRRD and provide further guidance in this regard (e.g. competent authorities and resolution authorities should specify the procedures applicable to the exchange of information regarding suitability assessments of members of the management body and their the replacement).

Internal governance

(31/07/2020) EBA – EBA launches consultation to revise its guidelines on internal governance

The EBA has launched a public consultation to revise its guidelines on internal governance. This review takes into account the amendments introduced by the CRD V and the IFD in relation to credit institutions' sound and effective governance arrangements. These guidelines clarify that identifying, managing and mitigating AML/CFT risk is part of sound internal governance arrangements and credit institutions' risk management framework. These draft guidelines further specify and reinforce the framework regarding loans to members of the management body and their related parties as these loans may constitute a specific source of actual or potential conflict of interest.

Shareholders

(24/09/2020) SEC – Procedural Requirements and Resubmission Thresholds under Exchange Act Rule 14a-8

The Securities and Exchange Commission (SEC) has adopted amendments to certain procedural requirements and the provision relating to resubmitted proposals under the shareholder-proposal rule in order to modernize and enhance the efficiency and integrity of the shareholder-proposal process for the benefit of all shareholders. The amendments to the procedural rules: i) amend the current ownership requirements to incorporate a tiered approach that provides three options for demonstrating a sufficient ownership stake in a company to be eligible to submit a proposal; ii) require certain documentation to be provided when a proposal is submitted on behalf of a shareholder-proponent; iii) require shareholder-proponents to identify specific dates and times they can meet with the company in person or via teleconference to engage with the company with respect to the proposal; and iv) provide that a person may submit no more than one proposal, directly or indirectly, for the same shareholders' meeting.

Corporate governance

(12/10/2020) CNMV – Circular que modifica los modelos de informe anual de gobierno corporativo y de remuneraciones de consejeros de las cotizadas

The Comisión Nacional del Mercado de Valores (CNMV) has published the Circular 1/2020 amending Circulars which establish the models for the annual corporate governance report and the models for the annual report on the remuneration of directors of listed companies, among others. The changes introduced in the annual corporate governance report model mainly affect the part in which companies have to indicate the degree of compliance with the corporate governance recommendations, which have been adapted to the modifications introduced in the Code.

Investment Firms Directive

(17/12/2020) EBA – EBA launches consultation on its new Guidelines on internal governance for investment firms / EBA launches consultation on its new Guidelines on remuneration policies for investment firms

The EBA launched two documents for a public consultation under the Investment Firms Directive (IFD), with a focus con Class 2 IF: one document specifies the internal governance provisions, aiming at ensuring that investment firms have a clear organisational structure, effectively manage their risks and have adequate internal control mechanisms in place; other document on remuneration provisions, aiming at ensuring an alignment of the variable remuneration of identified staff with the risk profile of the investment firm and the assets it manages, and the gender neutrality.

Individual Accountability

(28/12/2020) PRA – Strengthening individual accountability in banking

The PRA has published the Supervisory Statement on Strengthening individual accountability in banking which seeks to advance the PRA's statutory objective of ensuring the safety and soundness of the firms it regulates by setting out the PRA's expectations of how Relevant Firms should comply with the regulatory framework of the: i) Senior Managers Regime; ii) Certification Regime; iii) assessment of fitness and propriety; iv) Conduct Rules; and v) regulatory references.

Internal governance

(30/12/2020) PRA – Internal governance of third country branches

The PRA has published the Supervisory Statement on Internal governance of third country branches which sets out the PRA's expectations and how these firms should comply with the 'Internal Governance of Third Country Branches'. The rules and supervisory statement cover the following areas: i) general organisational requirements; ii) persons who effectively direct the business; iii) responsibility of senior personnel; iv) skills, knowledge and expertise; v) compliance and internal audit; vi) risk control; vii) outsourcing; and viii) record keeping.

Other publications of interest

Recovery and resolution

BRRD

(20/05/2020) EBA – Report on interlinkages between recovery and resolution planning

The EBA has published a Report which assesses interlinkages between recovery and resolution planning under the Bank Recovery and Resolution Directive (BRRD), with the aim of enhancing synergies between the two phases and ensuring consistency in their potential implementation. In particular, this Report is divided into the following sections: i) Comparative analysis of recovery and resolution plans; ii) focus on critical functions and use of central banks facilities; iii) assessment of the potential impact of recovery options on resolvability, and iv) future work.

BRRD/CRD/SSMR

(26/06/2020) EBA – EBA launches discussion on further enhancing supervisory powers of competent authorities

The EBA has published a discussion paper exploring ways on how to enhance the Bank Recovery and Resolution Directive (BRRD) framework on early intervention measures. The objective is to further enhance crisis management tools available for competent authorities in addition to well-established and widely used supervisory powers laid down in the Capital Requirements Directive (CRD) and in the Single Supervisory Mechanism Regulation (SSMR). The deadline for the submission of comments to this discussion paper is the 25th September 2020.

Resolution plans

(01/07/2020) Fed/FDIC – Agencies provide largest firms with information for next resolution plans

The Fed and FDIC have provided information to the eight largest and most complex domestic banking organizations that will guide their next resolution plans, which are due by July 1, 2021. Resolution plans, commonly known as living wills, must describe the firm's strategy for rapid and orderly resolution in bankruptcy in the event of material financial distress or failure of the firm. The 2021 plans will be required to include core elements of a firm's resolution plan—such as capital, liquidity, and recapitalization strategies—as well as how each firm has integrated changes to and lessons learned from its response to the coronavirus into its resolution planning process. This will be the first "targeted" resolution plan, a type of plan introduced in the revisions to the agencies' resolution plan rule finalized last year.

Bail-in

(10/08/2020) SRB – Operational Guidance on Bail-in Playbooks / Bail-in Data Instructions / Bail-in Data Explanatory Note / Q&A for publication of bail-in guidance

The Single Resolution Board (SRB) has published a new set of documents to give operational guidance to banks on the implementation of the bail-in tool. The documents include guidance on bail-in playbooks and instructions for bail-in data sets, which are accompanied by an explanatory note. The documents are not a new set of SRB policies, but rather a guide to help banks ensure the required preparation for bail-in application during the resolution planning phase. The documents cover topics such as the identification of instruments, internal and external execution processes, and the provision of bail-in data points.

Assessment Methodology

(25/08/2020) FSB – FSB publishes Key Attributes Assessment Methodology for the Insurance Sector

The Financial Stability Board (FSB) has published a Key Attributes Assessment Methodology for Financial Institutions with respect to the Insurance Sector. The methodology sets out essential criteria to guide the assessment of the compliance of a jurisdiction's insurance resolution framework with the FSB's Key Attributes of Effective Resolution Regimes for Financial Institutions with respect to the insurance sector. The Key Attributes constitute a standard framework for resolution regimes for all types of financial institutions. Implementation of the Key Attributes allows authorities to resolve financial institutions in an orderly manner without taxpayer exposure to loss from solvency support, while maintaining continuity of their vital economic functions.

CRD V / BRRD II

(13/11/2020) BoE- Statement on the application of the temporary transitional power to CRD V and BRRD II derived legislation

The Bank of England (BoE) has published an Statement on the application of the temporary transitional power (TTP) to CRD V and BRRD II derived legislation. This statement confirms that no additional exceptions from the application of the transitional temporary power are expected to be required in relation to onshoring changes to new rules and legislation implementing CRD V and BRRD II. This means that the TTP will apply to the small number of 'relevant obligations' which are changed by onshoring amendments made to CRD V and BRRD II derived legislation at the end of the transition period.

CCP

(16/11/2020) FSB - Guidance on Financial Resources to Support CCP Resolution and on the Treatment of CCP Equity in Resolution

The FSB has published a report which sets out guidance to support authorities in their assessment of the adequacy of financial resources for central counterparty (CCP) resolution and of the treatment of CCP equity in the context of resolution. Resolution authorities should conduct such assessment in cooperation with the CCP's oversight and/or supervisory authorities. For CCPs that are systemically important in more than one jurisdiction, such assessment should be reviewed and updated on an annual basis and the results of such review/update be discussed within the firms' crisis management groups.

Recovery planning

(07/12/2020) PRA – Simplified Obligations for recovery planning-PS 25/20

The PRA has published the Policy Statement (PS) 25/20 which provides feedback to responses to the PRA's Consultation Paper (CP) 10/20 on Simplified Obligations for recovery planning. The PRA received two responses to the CP: i) one response suggested that the criteria for assessing eligibility for Simplified Obligations take into consideration firms that are subject to both solvent wind down planning and recovery and resolution plans; ii) the other response suggested additional measures to further reduce recovery planning expectations for eligible firms, and requested additional clarification on some of the proposals in CP10/20.

Bank resolution

(11/12/2020) SRB- SRB publishes its final Valuation Data Set

The Single Resolution Board (SRB) has published its standardised data set to ensure that the minimum needed data is available to support a robust valuation for bank resolution. The SRB approach to valuation relies on banks' ability to provide accurate and timely information in case of resolution. A standardised data set covering the minimum data needed for valuation will help banks have their management information systems ready to deliver. As part of its annual resolvability assessment, the SRB will evaluate the capacity of banks to collect and provide this information on a timely basis to resolution authorities and/or valuers.

Resolution Plans

(22/12/2020) FDIC – Guidance for Resolution Plan Submissions of Certain Foreign-Based Covered Companies

The Federal Reserve System (Board) and Federal Deposit Insurance Corporation (FDIC) are adopting the Final Guidance for Resolution Plan Submissions of Certain Foreign-Based Covered Companies which is meant to assist these firms in developing their resolution plans. The final guidance reflects a number of changes to the proposal in response to comments received by the agencies and further analysis by the agencies.

BRRD

(23/12/2020) EBA – EBA publishes final draft technical standards on impracticability of contractual recognition under the BRRD framework

The EBA has published its final draft Regulatory Technical Standards (RTS) and final draft Implementing Technical Standards (ITS) on impracticability of contractual recognition of bail-in powers under the Bank Recovery and Resolution Directive (BRRD). These standards, which aim at ensuring the harmonised application of instances on this topic, are part of the EBA's work to implement the BRRD. This draft RTS determine the conditions of impracticability, the conditions for the resolution authority to require its inclusion and the timeframe for the resolution authority to require the inclusion of a contractual term. And, it also specify the uniform formats and templates for the notification to resolution authorities of determinations of impracticability to achieve contractual recognition.

Other publications of interest

Reporting and disclosure

Reporting measures

(28/01/2020) EIOPA – Annual report on the use on the use of exemptions and limitations from the regular supervisory reporting

The European Insurance and Occupational Pensions Authority (EIOPA) has published its annual report on the use of exemptions and limitations from the regular supervisory reporting during 2018 and Q1 2019 by national competent authorities (NCAs) under Solvency II. The goal of this report is to address the issue of proportionality of the reporting requirements, from which the limitations and exemptions on reporting as foreseen in the Solvency II Directive should not be seen as the only proportionality tools. This report introduces two new examples how proportionality is implemented in the reporting, reflecting the nature, scale and complexity of the risks inherent to the business: the look-through reporting of collective investment undertakings (CIUs) for unit-linked contracts and the number of templates used by different sized companies.

Brexit

(31/01/2020) ESMA – Update on governance and reporting obligations following the UK's withdrawal from the European Union

The ESMA has published a statement that clarifies issues relating to ESMA's governance and the reporting obligations for UK entities from 1 February 2020 following the UK's withdrawal from the EU. In particular, in the Withdrawal Agreement it is stipulated that: UK Financial Conduct Authority (FCA) will no longer be a member of ESMA's Board of Supervisors and EU law will continue to apply to the UK, as if it were a Member State, during the transition period from 1 February 2020 to 31 December 2020. During this period the rights and obligations for UK entities under EU law will also continue to apply and the ESMA will continue to directly supervise registered UK's Credit Rating Agencies, Trade Repositories and Securitisation Repositories.

MREL

(17/02/2020) SRB – Proposal to public consultation on changes to MREL policy under the 2019 Banking Package

The Single Resolution Board (SRB) has launched a public consultation on changes to its Minimum Requirement for Own Funds and Eligible Liabilities (MREL) policy under the 2019 Banking Package with the aim of receiving responses and suggestions from a full range of stakeholders. The SRB has published a proposal that covers the implementation of provisions related to MREL requirements for G-SIIs, changes to the quality of MREL and changes to the calibration of MREL, including introducing MREL based on the leverage ratio, among others. The consultation will be open until 12.00 Brussels time on 6 March 2020.

Benchmarking Exercise

(27/02/2020) EBA – Updated list of institutions involved in the 2020 supervisory benchmarking exercise

The EBA has published an updated list of institutions, which have a reporting obligation for the purpose of the 2020 EU supervisory benchmarking exercise. The EBA runs this exercise leveraging on established data collection procedures and formats of regular supervisory reporting and assists Competent Authorities in assessing the quality of internal approaches used to calculate risk weighted exposure amounts.

Public financial Data

(28/02/2020) BoS – Consulta pública previa a la elaboración del proyecto de Circular del Banco de España, a entidades de pago y a entidades de dinero electrónico sobre normas de información financiera pública y reservada, y modelos de estados financieros

The Bank of Spain (BoS) has published a consultation prior to the draft circular to payment institutions (EP) and electronic money institutions (EDE) on standards of public and confidential financial reporting and model financial statements in order to obtain the opinion of persons and institutions potentially affected by the draft standard. The projected standard will potentially allow EP and EDE to apply the same accounting criteria as credit institutions and financial credit establishments (EFC), which are in turn compatible with the EU-IFRS accounting framework, respecting the provisions of the Code of Commerce. The deadline for submitting comments is 16 March 2020.

Pillar 3

(02/03/2020) EBA – EBA Report on assessment of institutions' Pillar 3 disclosures

The European Banking Authority (EBA) has published a Report on assessment of institutions' Pillar 3 disclosures with the objective of identifying best practices and potential areas for improvement in institutions' public disclosures. In particular, some practices that the EBA has identified that impair proper disclosures are: i) omissions or incomplete disclosures without any indications or explanations; ii) suboptimal identification and location of Pillar 3 reports such that it is difficult for users of information to access the reports; iii) lack of consistency in the structure of Pillar 3 reports and of the information disclosed, and iv) inaccuracies in the quantitative data disclosed.

Credit rating

(30/03/2020) ESMA – Call for evidence on credit rating information and data

The ESMA has published a Call for evidence on the availability and use of credit rating information and data in order to gather information on the specific uses of credit ratings as well as how the users of credit ratings are currently accessing this information. Stakeholders' feedback to this call for evidence will enable ESMA to map the principal activities undertaken by various types of users of credit ratings.

Cross-border funds distribution

(31/03/2020) ESMA – Consultation on standardised information to facilitate cross-border funds distribution

The ESMA has published a Consultation Paper (CP) which aims is to seek the view of external stakeholders on the draft ITS that specify the information to be communicated, as well as the standard forms, templates and procedures for communication of the information by the NCAs which is necessary for the creation and maintenance of the central database on cross-border marketing of AIFs and UCITS.

Reporting framework

(09/04/2020) EBA – Phase 1 of the technical package on reporting framework 2.10

The EBA has published a new release of the reporting framework 2.10, which includes the validation rules, the Data Point Model (DPM) dictionary and XBRL taxonomies. In particular, this package reflects the following: i) The technical package for the updated EBA Guidelines on Funding Plans, applicable from 31 December 2020; ii) integration of the EBA Guidelines on the remuneration benchmarking exercise and the EBA Guidelines on the data collection exercise regarding high earners into the DPM and XBRL taxonomies, and iii) integration of the EBA Guidelines on fraud reporting under the second payment services directive (PSD2) into the DPM and XBRL taxonomies.

Transparency

(04/05/2020) EBA – Additional EU-wide transparency exercise

The EBA has launched an additional EU-wide transparency exercise based on supervisory reporting data to provide market participants with updated information on the financial conditions of EU banks as of 31 December 2019, prior to the start of the COVID-19 pandemic, and is expected that the results for this exercise will be published at the beginning of June.

Short selling

(18/05/2020) ESMA – Non-renewal and termination of short selling bans by Austrian FMA, Belgian FSMA, French AMF, Greek HCMC, Italian CONSOB and Spanish CNMV

The ESMA has announced the non-renewal of the emergency restrictions on short selling and similar transactions by the following national competent authorities (NCAs): Finanzmarktaufsicht (FMA) of Austria; Financial Securities and Markets Authority (FSMA) of Belgium; Autorité des Marchés Financiers (AMF) of France; Hellenic Capital Market Commission (HCMC) of Greece; and Comisión Nacional del Mercado de Valores (CNMV) of Spain. Furthermore, the emergency restrictions set by the Commissione Nazionale per le Società e la Borsa (CONSOB) of Italy will be early terminated.

Other publications of interest

Reporting and disclosure

SHS REGULATION

(26/05/2020) ECB – Guidance notes to reporting agents on SHS regulation

The ECB has published Guidance notes to reporting agents on statistics on holding of securities (SHS) regulation, which explains the underlying methodology of the reporting requirements and provides guidance on the preferred approach that may be taken in cases where the respective ECB legal act leaves scope for different interpretations. In particular this document is divided into the following sections: i) Scope of the SHS by reporting banking groups data collection; ii) instrument categories covered; iii) general reporting requirements, and iv) reported attributes.

VALIDATION RULES

(10/06/2020) EBA – EBA issues revised list of validation rules

The EBA issued a revised list of validation rules in its Implementing Technical Standards (ITS) on supervisory reporting, highlighting those which have been deactivated either for incorrectness or for triggering IT problems. Competent Authorities throughout the EU are informed that data submitted in accordance with these ITS should not be formally validated against the set of deactivated rules.

SOLVENCY II / MIFID II / MIFIR

(11/06/2020) MINECO – Borrador RD sobre información estadístico-contable de los distribuidores de seguros y de transposición en lo concerniente al sector asegurador Solvencia II, MiFID II y la Directiva AML/CFT

The Ministry of Economic Affairs and Digital Transformation (MINECO) has published the draft Royal Decree on statistical-accounting information of insurance distributors and transposition with regard to the insurance sector of Solvency II, MiFID II and the Directive on the prevention of the use of the financial system for the purpose of money laundering and financing of terrorism (AML/CFT). The objective of this RD is to improve the convergent application of EU law in cases of cross-border insurance activity, establishing the notification requirements for cases where there is significant cross-border insurance activity or a crisis situation, as well as the conditions for the creation of cooperation platforms. Reinforce communication to the European Insurance and Occupational Pensions Authority (EIOPA) by the Directorate-General for Insurance and Pension Funds in cases of application for authorisation of use and modification of internal models.

NET SHORT POSITIONS

(11/06/2020) ESMA – ESMA renews its Decision requiring net short position holders to report positions of 0.1% and above

The ESMA has renewed its decision to temporarily require the holders of net short positions in shares traded on a EU regulated market to notify the relevant NCA if the position exceeds 0.1% of the issued share capital. The measure applies from 17 June 2020 for a period of three months. The temporary transparency obligations apply to any natural or legal person, irrespective of their country of residence. They do not apply to shares admitted to trading on a regulated market where the principal venue for the trading of the shares is located in a third country, market making or stabilisation activities.

PASSPORT NOTIFICATIONS

(18/06/2020) EBA – EBA publishes final revised technical standards to enhance quality and consistency of information for passport notifications

The EBA has published its Final draft amending RTS and Implementing Technical Standards (ITS) on passport notification. The two sets of amending technical standards increase the quality and consistency of information to be provided by a credit institution notifying its home competent authorities when it intends to open a branch or provide services in another Member State, as well as of the communication between home and host authorities. In particular, the amendments focus on: i) requesting the credit institution to indicate as accurate the intended start date of each activity for which the notification is submitted; ii) increasing the granularity of the information on the financial plan to be notified in case of establishment of a branch; and iii) providing additional information in case of termination of the branch.

Information models

[(22/06/2020) MINECO – Orden ETD/554/2020, de 15 de junio, por la que se aprueban los modelos de información estadística, contable y a efectos de supervisión de los fondos de pensiones y sus entidades gestoras]

The Ministerio de Asuntos Económicos y Transformación Digital has approved the order ETD/554/2020 which aims to approve the statistical, accounting and supervisory information models that the managing entities must submit to the General Directorate of Insurance and Pension Funds (DGSFP). All models will be published on the website of the DGSFP to facilitate access to them from a single point and in the interests of supervisory transparency.

Transparency

[(07/07/2020) ESMA – ESMA publishes updated annual transparency calculations]

The ESMA made available the updated results of the annual transparency calculations for a limited number of equity and equity-like instruments. These updated annual transparency calculations will apply as of 13 July and include, among other, the liquidity assessment and the determination of the most relevant market in terms of liquidity (MRM). In this new publication there are 957 liquid shares and 617 liquid equity-like instruments other than shares, subject to MiFID II/MiFIR transparency requirements.

Reporting threshold

[(10/07/2020) SEC – Proposed rule on Reporting Threshold for Institutional Investment Managers]

The Securities and Exchange Commission (SEC) has proposed to amend Form 13F to update the reporting threshold for institutional investment managers and make other targeted changes. Form 13F was designed to provide the SEC with data from larger managers about their investment activities and holdings, so that their influence and impact could be considered in maintaining fair and orderly securities markets. In 1978, when Form 13F was adopted, the threshold for filing the form was set at $100 million, the amount in the underlying statute and representing a certain proportionate market value of U.S. equities. This new proposal would raise the reporting threshold to $3.5 billion.

Reporting framework

[(10/07/2020) EBA – EBA publishes phase 2 of its technical package on reporting framework 2.10]

The EBA has published a new release of the reporting framework 2.10, providing the technical tools and specifications for the implementation of EBA reporting requirements. The package includes the validation rules, the Data Point Model (DPM) dictionary and XBRL taxonomies. This package reflects the following reporting changes: i) the new EBA Guidelines on reporting and disclosure COVID-19 measures; ii) the updated ITS on Supervisory Benchmarking of internal models; and iii) minor amendments to the DPM, validation rules and XBRL taxonomies for Resolution planning reporting as well as reporting on Funding Plans.

Prospectus regulation

[(15/07/2020) ESMA – Guidelines on disclosure requirements on Prospectus disclosure]

The ESMA has published Guidelines on disclosure requirements under the Prospectus Regulation with the aim of ensuring uniform understanding of the relevant disclosure requirements and to assist national competent authorities (NCAs) when they assess information in prospectuses. In particular, this guidelines covers topics regarding the historical financial information and interim financial information, the profit forecasts and estimates, the working capital statements, and the capitalisation and indebtedness.

Transparency calculations for non-equity instruments

[(15/07/2020) ESMA – ESMA publishes results of the annual transparency calculations for non-equity instruments]

The ESMA has made available the results of the annual transparency calculations for non-equity instruments, which will apply from 15 September 2020. These calculations include the liquidity assessment and the determination of the pre- and post-trade size specific to the instruments and large in scale thresholds. The results for the liquid sub-classes have been published in Excel format in the Annual transparency calculations for non-equity instruments register. The file does not contain the results for a number of asset-classes and sub-classes given the impossibility to correctly apply the segmentation criteria due to data quality problems or the absence of reporting standards for the applicable reference data. As a result, the transparency calculations for, among others, credit derivatives and options, futures and forward rate agreements (FRAs) on interest rates are not available.

Other publications of interest

Reporting and disclosure

TRANSPARENCY

(17/07/2020) ESMA – Guidance on waivers from pre-trade transparency

The ESMA has published an opinion providing guidance on pre-trade transparency waivers for equity and non-equity instruments. The document replaces the guidance of the Committee of European Securities Regulators and ESMA's opinions on waivers from pre-trade transparency under the Market in Financial Instruments Directive (MiFID I). This guidance provides stakeholders with information on ESMA's assessment of features frequently encountered in the context of issuing opinions on waivers from pre-trade transparency over the last three years. The opinion aims to contribute to the consistent application of waivers from pre-trade transparency across the EU.

PRIIPS

(20/07/2020) ESA – ESAs notify the European Commission about the outcome of the review of the PRIIPs key information document

The European Supervisory Authorities (ESAs) have informed the European Commission (EC) of the outcome of the review conducted by the ESAs of the key information document (KID) for packaged retail and insurance-based investment products (PRIIPs). This follows the ESAs' consultation paper published on 16 October 2019 on draft regulatory technical standards (RTS) to amend the technical rules on the presentation, content, review and revision of KID (Delegated Regulation (EU) 2017/653).

REPORTING COSTS

(22/07/2020) EBA – Reduction of reporting costs

As part of its drive for more proportionate regulatory and supervisory framework, the EBA is looking for ways to optimise supervisory reporting requirements and reduce reporting costs for institutions, especially smaller ones. To fulfil this mandate the EBA has launched a questionnaire addressed to all European banks and a call for case studies to collect evidence on reporting costs as well as industry views on ways to reduce such costs and make the supervisory reporting more efficient. The study aims to better understand reporting costs and identify ways to reduce the costs by 10 – 20% at least for small and non-complex institutions. The EBA expects the responses to the questionnaires and case studies in October 2020.

ESEF

(22/07/2020) FCA – CP20/12: Consultation on delay to the implementation of the European Single Electronic Format

The Financial Conduct Authority (FCA) has published Consultation Paper (CP) 20/12 on delay to the implementation of the European Single Electronic Format (ESEF). Under this proposal the requirement for issuers: i) to publish their annual financial reports in XHTML web browser format, replacing the current PDF format, would be pushed back to financial years starting on or after 1 January 2021, for publication from 1 January 2022; ii) who prepare consolidated annual financial statements in accordance with IFRS to tag basic financial information would be pushed back to financial years starting on or after 1 January 2021, for publication from 1 January 2022; and iii) who prepare IFRS consolidated annual financial statements to tag notes to the financial statements would be pushed back to financial years starting on or after 1 January 2023, for publication from 1 January 2024.

DERIVATIVES

(23/07/2020) EBA – EBA consults on technical standards specifying the determination of indirect exposures arising from (credit) derivative contracts underlying a debt or equity instrument for large exposures purposes

The EBA has launched a consultation on draft regulatory technical standards (RTS) specifying how institutions should determine exposures arising from derivative and credit derivative contracts not entered directly into with a client but whose underlying debt or equity instrument was issued by a client. In addition, this draft RTS provide a separate methodology for the calculation of exposures stemming from contracts with multiple underlying reference names. These draft RTS will ensure appropriate levels of consistency through different pieces of the regulatory framework for the calculation of exposures for large exposure purposes. The consultation runs until 23 October 2020.

MREL / TLAC

[(03/08/2020) EBA – EBA publishes final draft technical standards on disclosure and reporting on MREL and TLAC]

The EBA has published its final draft Implementing Technical Standards (ITS) on disclosure and reporting on the G-SII requirement for Total Loss-Absorbing Capacity (TLAC) and the minimum requirements for own funds and eligible liabilities (MREL). This is the first time that the EBA has developed disclosure and reporting requirements in this area, thus expanding the scope of the existing Pillar 3 and supervisory reporting frameworks in the EU. The ITS seek to maximise the consistency and comparability of disclosures under these ITS with the templates and definitions included in the relevant Pillar 3 standards of the BCBS, in order to reinforce market discipline.

Securitisation regulation

[(04/09/2020) ESMA – ESMA confirms securitisation regulation requirements entry into force on 23 September 2020]

The ESMA, the EU's securities markets regulator, confirms that the different elements of the new regime under the Securitisation Regulation will come into force on 23 September 2020. This follows the publication of seven technical standards implementing the Securitisation Regulation in the Official Journal of the European Union. That triggers firstly the opening of applications for entities to register as Securitisation Repository (SR). SRs centrally collect and maintain the records of securitisations and then will be registered and supervised by ESMA. Until ESMA has registered at least one SR, information that should be made available by reporting entities to SRs on public securitisations must be made make it available via a website which meets certain requirements. The other measure is the entry into force of new disclosure templates so that the information made available to investors, potential investors and competent authorities could be improved and standardized. These disclosure templates will enter into force on 23 September 2020 and must as of that date be used to make any new information available about a securitisation

Transparency

[(07/09/2020) ESMA – ESMA provides for the option to apply the annual transparency calculations for non-equity instruments from 21 september]

The ESMA has today decided that trading venues and investment firms may postpone, for operational reasons, the application of the annual transparency calculations for non-equity instruments other than bonds to 21 September 2020. This has arisen because the application of the non-equity transparency calculations coincides with the quarterly expiry week of many equity derivatives, a week characterised by high trading volumes and a higher level of volatility due to the rolling over of many contracts. In order to avoid technical issues that might be exacerbated by high market volatility during the current sensitive period, ESMA agreed that trading venues and investment firms may apply the non-equity transparency calculations from 21 September instead of 15 September 2020. As announced on 15 July 2020, ESMA will provide the annual transparency calculations for non-equity instruments at instrument (ISIN) basis, as of 14 September 2020.

Validation Rules

[(10/09/2020) EBA – EBA issues revised list of ITS validation rules]

The European Banking Authority (EBA) issued today a revised list of validation rules in its Implementing Technical Standards (ITS) on supervisory reporting, highlighting those, which have been deactivated either for incorrectness or for triggering IT problems. Competent Authorities throughout the EU are informed that data submitted in accordance with these ITS should not be formally validated against the set of deactivated rules

Statistical disclosures

[(14/09/2020) SEC – Final Rule on Update of Statistical Disclosures for Bank and Savings and Loan Registrants]

The SEC has issued a final rule on the update of Statistical Disclosures for Bank and Savings and Loan Registrants. The rule eliminates certain disclosure items that overlap other Commission rules and requirements of U.S. GAAP or IFRS. The rule relocate the requirements in a new subpart of Regulation S-K. The rules are intended to help ensure that investors have access to more meaningful, relevant information about these registrants to facilitate their investment and voting decisions.

Other publications of interest

Reporting and disclosure

Short positions

(17/09/2020) ESMA – ESMA renews its decision requiring net short position holders to report positions of 0.1% and above

The European Securities and Markets Authority (ESMA), the EU's securities markets regulator, has renewed its decision to temporarily require the holders of net short positions in shares traded on a European Union (EU) regulated market to notify the relevant national competent authority (NCA) if the position reaches or exceeds 0.1% of the issued share capital. The measure applies from 18 September 2020 for a period of three months. ESMA believes that this decision will maintain the ability of NCAs to deal with any threats to market integrity, orderly functioning of markets and financial stability at an early stage, allowing them and ESMA to address such threats in case of signs of exacerbated market stress. The temporary transparency obligations apply to any natural or legal person, irrespective of their country of residence. They do not apply to shares admitted to trading on a regulated market where the principal venue for the trading of the shares is located in a third country, market making or stabilisation activities

Transparency

(17/09/2020) FASB - FASB approves accounting updates to presentation and disclosures by not-for-profit entities for contributed nonfinancial assets

The Financial Accounting Standards Board (FASB) has issued an Accounting Standards Update (ASU) intended to improve transparency in the reporting of contributed nonfinancial assets, also known as gifts-in-kind, for not-for-profit organizations. The ASU requires a not-for-profit organization to present contributed nonfinancial assets as a separate line item in the statement of activities, apart from contributions of cash or other financial assets. Furthermore, it also requires a not-for-profit to disclose among others: contributed nonfinancial assets recognized within the statement of activities disaggregated by category that depicts the type of contributed nonfinancial assets; the not-for-profit's policy (if any) about monetizing; a description of any donor-imposed restrictions associated with the contributed nonfinancial assets; and the valuation techniques and inputs used to arrive at a fair value measure.

CRR

(21/09/2020) ECB – ECB proposes to reduce reporting burden for banks and increase data quality

The ECB has published the European System of Central Banks' (ESCB) input into a EBA feasibility report on reducing the reporting burden for the European banking industry. Under Article 430c of the Capital Requirements Regulation (CRR), the EP and the Council of the EU mandated the EBA to carry out a feasibility study and requested that input from the ESCB be taken into account. The ESCB report proposes to reduce the reporting burden for banks in the fields of statistical, resolution and prudential reporting without losing the information content that is indispensable to monetary policy, resolution and supervisory tasks. These efforts should help to reduce the reporting burden for banks and increase the quality of the data received by authorities. As a result, banks would be able to reduce costs, and authorities could better monitor developments in the banking industry.

Funds transfer

(23/10/2020) Fed – Agencies invite comment on proposed rule under Bank Secrecy Act

The Financial Crimes Enforcement Network (FinCEN) and the Federal Reserve Board have invited comment on a proposed rule that would amend the recordkeeping and travel rule regulations under the Bank Secrecy Act. Under the current regulations on this matter, financial institutions must collect, retain, and transmit certain information related to funds transfers and transmittals of funds over $3,000. The proposed rule lowers the applicable threshold from $3,000 to $250 for international transactions. The threshold for domestic transactions remains unchanged at $3,000.

Financial Information and disclosure

(28/10/2020) FSB – 2020 Status Report: Task Force on Climate-related Financial Disclosures

The Task Force on Climate-related Financial Disclosures (TCFD) has published its Annual Report on TCFD-aligned disclosures by firms. The latest status report finds that disclosure of climate-related financial information aligned with the TCFD recommendations has steadily increased since the recommendations were published in 2017. However, the report highlights the continuing need for progress in improving levels of TCFD-aligned disclosures given the urgent demand for consistency and comparability in reporting. The report also provides a 'roadmap' for preparers through highlighting insights from expert users on which information is most useful for decision making.

Financial Information and disclosure

(29/10/2020) IFRS – The IFRS Foundation proposes changes to the IFRS Taxonomy 2020 to support high-quality tagging of primary financial statements

The IFRS Foundation has published the IFRS Taxonomy 2020. The proposed changes aim to support the high-quality tagging of information presented in primary financial statements and include: i) new elements reflecting common reporting practice, for example new line items for disclosures related to earnings per share and the transition to new IFRS Standards; and ii) new and amended labels to clarify the accounting meaning and intended use of some existing elements.

Reporting Obligations

(02/11/2020) ECB – The Eurosystem Integrated Reporting Framework: an overview / Cost-benefit assessment questionnaire on the Integrated Reporting Framework for the banking industry

The European Central Bank (ECB) has published an overview the Integrated Reporting Framework (IReF), which aims to reduce the reporting burden for banks arising from statistical reporting. Moreover, the statistical reporting burden should not depend on the euro area country in which a bank is resident. The ECB envisages issuing an IReF Regulation on statistical data requirements for banks which would be directly applicable to banks resident in the euro area and would not have to be incorporated into national collection frameworks. Non-euro area EU countries may decide to adopt the IReF reporting through national legislation in full or in part.

Granting of Loans

(06/11/2020) BdE - Proyecto de circular que modifica las Circulares 1/2013, sobre la Central de Información de Riesgos, y la 5/2012, sobre transparencia de los servicios bancarios y responsabilidad en la concesión de préstamos

The Bank of Spain (BoS) has published the draft circular whose main purpose is to adapt the Bank of Spain's Circular 1/2013, on the Central Risk Information (CIR) Agency and Circular 5/2012, on the transparency of banking services and responsibility in the granting of loans, to the changes introduced in the regulation of the CIR and the official reference rates, respectively, by Order ETD/699/2020 on the regulation of revolving credit (OM of revolving credit). This Order introduces changes to the OM of the CIR that affect various aspects of the CIR's operation aimed at providing more complete information to reporting parties and improving its capabilities in terms of the information available for increasingly accurate solvency analysis.

Fund Management

(09/11/2020) ESMA - ESMA consults on guidance for funds' marketing communications

The ESMA has launched a consultation on guidelines on marketing communications under the Regulation on facilitating cross-border distribution of collective investment undertakings. The purpose is to specify the requirements for marketing communications sent to investors in order to promote UCITS and AIFs, including EuSEFs, EuVECAs and ELTIFs. These requirements are the following: i) that the marketing material shall be identifiable as marketing material; ii) that the marketing material shall describe the risks and rewards of purchasing units or shares of an AIF or units of a UCITS in an equally prominent manner; and iii) that this material contain fair, clear and not misleading information.

Financial Information and Disclosure

(13/11/2020) CNMV - Circular 2/2020, de 28 de octubre, de la Comisión Nacional del Mercado de Valores, sobre publicidad de los productos y servicios de inversión

The Comisión Nacional del Mercado de Valores (CNMV) has published the Circular 2/2020 of 28 October on disclosure of investment products and services. This Circular develops both the scope of application and the content and format that advertising messages must respect. It also establishes rules on the procedures and internal controls to be implemented by entities and the obligations to register advertising, and the regime applicable if entities decide to voluntarily adhere to self-regulation systems for advertising activity to ensure that the principles and criteria set out in this Circular on the content and format of advertising messages.

Other publications of interest

Reporting and disclosure

Financial Information and Disclosure

(19/11/2020) SEC - Management's Discussion and Analysis, Selected Financial Data, and Supplementary Financial Information

The Securities and Exchange Comission (SEC) has issued a Final Rule on Management's Discussion and Analysis (MD&A), Selected Financial Data, and Supplementary Financial Information. This Final Rule adopts amendments to modernize, simplify, and enhance certain financial disclosure requirements in Regulation S-K. Specifically, the requirement for Selected Financial Data have been eliminated, streamlining the requirement to disclose Supplementary Financial Information, and amending MD&A of Financial Condition and Results of Operations. These amendments are intended to eliminate duplicative disclosures and modernize and enhance MD&A disclosures for the benefit of investors, while simplifying compliance efforts for registrants.

Data reporting services providers

(20/11/2020) ESMA - ESMA consults on supervisory fees for data reporting services providers / ESMA consults on derogation criteria for data reporting services providers

The European Securities and Markets Authority (ESMA) has launched two public consultation. The first one refers to supervisory fees for data reporting services providers (DRSPs) to be supervised by ESMA starting in 2022. The second consultation addresses the criteria to identify Authorised Reporting Mechanisms (ARMs) and Approved Publications Arrangements (APAs) subject to authorisation and supervision by a competent authority of a EU Member States from January 2022. The revised regulation envisages that certain ARMs and APAs may be exempted from direct EU supervision due to their limited relevance for the internal market.

Transparency

(23/12/2020) ESMA – ESMA updates guidance on waivers from pre-trade transparency

The ESMA has published an updated opinion providing guidance on pre-trade transparency waivers for equity and non-equity instruments. It covers guidance related to request for quote systems, guidance on how trading venues should apply for a waiver to their national competent authority, and updates on frequently encountered issues when assessing waiver notifications. The opinion aims at contributing to the consistent application of waivers from pre-trade transparency across the EU.


Index
1.56
0.78

Other publications of interest

Compliance

CRA

(02/01/2020) OCC – CRA Evaluations for 24 National Banks and Federal Savings Associations

The Office of the Comptroller of the Currency (OCC) has published a list of Community Reinvestment Act (CRA) performance evaluations for December 2019. The list contains only national banks, federal savings associations, and insured federal branches of foreign banks that have received ratings. Of the 24 evaluations made public this month, 16 are rated satisfactory, and eight are rated outstanding.

MiFID II & MiFIR

(31/01/2020) ESMA – Consultation Paper Draft technical standards on the provision of investment services and activities in the Union by third-country firms under MiFID II and MiFIR

The ESMA has published the CP Draft technical standards on the provision of investment services and activities in the Union by third-country firms under MiFID II and MiFIR with the aim of receiving comments from the stakeholders.

CRA

(05/02/2020) OCC – CRA performance evaluations: January 2020

The OCC has published a list of Community Reinvestment Act (CRA) performance evaluations for January 2020. The list contains only national banks, federal savings associations, and insured federal branches of foreign banks that have received ratings. Of the 28 evaluations made public this month, 7 are rated satisfactory, and 21 are rated outstanding.

Professional indemnity insurance

(28/02/2020) EBA – Review of RTS on Professional Indemnity Insurance for mortgage credit intermediaries

The EBA has published a Report on the review of the Regulatory Technical Standard (RTS) specifying the minimum monetary amount of the professional indemnity insurance (PII) or comparable guarantee for mortgage credit intermediaries. The objective is to provide an overview of the legal basis, the methodological approach used and the assessment on whether to amend the RTS at this point in time. Based on this assessment, the EBA concludes that there is currently no evidence that would suggest that the PII minimum monetary amounts would need to be amended.

CCP regulation

(30/03/2020) ESMA – Draft Regulatory Technical Standards for CCP Colleges

The ESMA has published a Final Report containing draft RTS for central counterparty (CCP) colleges under the European Markets Infrastructure Regulation (EMIR) 2.2 with the purpose of amending i) voting procedures; ii) the procedures for setting the agenda of college meetings; iii) review and evaluation of the arrangements, strategies, processes and mechanisms implemented by the CCP and the risks to which the CCP is exposed; iv) the minimum timeframes for the assessment of the relevant documentation by the college members; and v) the modalities of communication between college members.

Extend on compliance dates

(01/05/2020) Fed – Final rule to extend compliance dates for certain parts of its single-counterparty credit limit rule

The Federal Reserve (Fed) has published a final rule to extend by 18 months the initial compliance dates for certain parts of its Single-Counterparty Credit Limits for Bank Holding Companies and Foreign Banking Organizations (final SCCL rule). In particular, this final rule revises the final SCCL rule to modify the initial compliance dates of January 1, 2020, for a foreign banking organization that has the characteristics of a global systemically important banking organization and July 1, 2020, for any other foreign banking organization subject to the final SCCL rule to July 1, 2021, and January 1, 2022, respectively, regarding the SCCL applicable to a foreign banking organization's combined US operations only.

CRA

(04/05/2020) FDIC – List of Banks Examined for CRA Compliance

The Federal Deposit Insurance Corporation (FDIC) has published its list of state nonmember banks recently evaluated for compliance with the Community Reinvestment Act (CRA). In particular, this list evaluates banks from several regions including: Atlanta, Chicago, Dallas, Kansas City, New York and San Francisco.

CRA

[(20/05/2020) OCC – Final Rule to strengthen and Modernize the Community Reinvestment Act]

The OCC has published a Final Rule to strengthen and modernize the Community Reinvestment Act (CRA) by clarifying and expanding the activities that qualify for CRA credit; updating where activities count for CRA credit; creating a more consistent and objective method for evaluating CRA performance; and providing for more timely and transparent CRA-related data collection, recordkeeping, and reporting. In particular, this will increase bank CRA-related lending, investment, and services in low- and moderate-income communities where there is significant need for credit, more responsible lending, and greater access to banking services.

Anti-money laundering and terrorist financing

(07/05/2020) EC – Commission steps up fight against money laundering and terrorist financing/EBA welcomes EU Commission launch of AML/CFT action plan and stands ready to provide support

The Commission has published an Action Plan, which sets out concrete measures that the Commission will take over the next 12 months to better enforce, supervise and coordinate the EU's rules on combating money laundering and terrorist financing. The aim of this new approach is to shut down any remaining loopholes and remove any weak links in the EU's rules. It has also published a more transparent, refined methodology to identify high-risk third countries that have strategic deficiencies in their anti-money laundering and countering terrorist financing regimes that pose significant threats to the EU's financial system.

AML/CFT

(15/06/2020) EBA – EBA calls for input to understand impact of de-risking on financial institutions and customers

The EBA issued today a call for input to understand the scale and drivers of ‘de-risking‘ at EU level and its impact on customers. This call, which forms part of the EBA’s work to lead, coordinate and monitor the EU financial sector’s Anti-Money Laundering / Combating the Financing of Terrorism (AML/CFT) efforts, aims primarily to understand why financial institutions choose to de-risk instead of managing the risks associated with certain sectors or customers. The call for input runs until 11 September 2020.

CRA

(02/07/2020) FDIC/OCC – FDIC Issues List of Banks Examined for CRA Compliance / OCC Releases CRA Evaluations for 21 National Banks and Federal Savings Associations

The Federal Deposit Insurance Corporation (FDIC) has issued its list of state nonmember banks recently evaluated for compliance with the Community Reinvestment Act (CRA). The list covers evaluation ratings that the FDIC assigned to institutions in April 2020. Furthermore, the Office of the Comptroller of the Currency (OCC) has released a list of CRA performance evaluations that became public during the period of June 1, 2020 through June 30, 2020. The list contains only national banks, federal savings associations, and insured federal branches of foreign banks that have received ratings. Of the 21 evaluations made public this month, 11 are rated satisfactory, nine are rated outstanding, and one is rated needs to improve.

AML / CFT

(02/07/2020) BCBS – Sound management of risks related to money laundering and financing of terrorism

The BCBS has amended guidelines on sound management of risks related to money laundering and financing of terrorism (AML/CFT), to introduce guidelines on cooperation and information exchange among prudential and AML/CFT supervisors. The revised guidelines include new paragraph 96 in Part IV (The role of supervisors) and Annex 5 (Interaction and cooperation between prudential and AML/CFT supervisors). Annex 5 sets out specific principles, recommendations and descriptive examples, to facilitate effective and efficient cooperation in relation to authorisation related procedures of a bank, ongoing supervision, and enforcement actions. It also describes possible methods of implementation including mechanisms to facilitate such cooperation at the jurisdictional and international level.

Other publications of interest

Compliance

AML / CFT

(10/07/2020) EP – MEPs set out new measures to stop money laundering

The European Parliament (EP) has adopted a resolution welcoming the EC's Action Plan on how to fight effectively against money laundering and terrorist financing (AML/CFT). The EP want the EC to address the persisting lack of quality data to identify ultimate beneficial owners by setting up interconnected and high-quality registers in the EU with high standards of data protection. It also wants to widen the scope of supervised entities to include new and disruptive market sectors such as crypto-assets. Finally, the EP reiterates that non-cooperative jurisdictions and high-risk third countries must be immediately blacklisted, while creating clear benchmarks and cooperating with those undertaking reforms.

Banking products advertising

(15/07/2020) BdE – Circular 4/2020 sobre publicidad de los productos y servicios bancarios

The Bank of Spain (BoS) has published Circular 4/2020, a regulation that updates the regulatory framework for advertising of banking products and services, especially with regard to advertising in digital media and channels and on social networks. This circular is a relevant piece for strengthening the conduct of institutions towards their customers, one of the objectives of the BoS's Strategic Plan 2024. The circular stresses the need to mitigate the possible excesses of bank advertising in a preventive manner. Therefore, institutions are required to strengthen internal procedures and controls when designing their advertising campaigns.

MiFID II / MiFIR

(01/09/2020) ESMA – ESMA publishes call for evidence in the context of the reviews of transparency requirements for equity and non-equity instruments

The ESMA has published a call for evidence in the context of its intention to review Commission Delegated Regulation (EU) No 2017/587 and 2017/583 which contain the main implementing measures in respect of the MiFID II/MiFIR transparency regime for equity and non-equity instruments. The purpose of this exercise is to gather input and views on practical issues related to the application of both regulations that market participants have identified since the application of MiFID II/ MiFIR. The ESMA would also like to receive feedback on any technical issue and policy gap that market participants have encountered at implementation level, as well as unclear provisions. The ESMA will consider the feedback to this call for evidence to prepare the consultation paper for the review of this regulation, which will follow in 2021.

AML/CFT

(10/09/2020) EBA – EBA calls on the EU Commission to establish a single rulebook on fighting money laundering and terrorist financing

The EBA has published its response to a European Commission's call for advice on how to strengthen the EU legal framework on anti-money laundering and countering the financing of terrorism (AML/CFT). The European Commission issued this call for advice to the EBA to take advantage of its technical expertise across all areas of financial services regulation and because the EBA has a legal duty to lead, coordinate and monitor the EU financial sector's fight against ML/TF. Specifically, the EBA recommends that the Commission establish a single rulebook to: Harmonise the EU legal framework in a directly applicable Regulation; Strengthen aspects of the current AML/CFT Directive; Review the list of obliged entities currently within the scope of the EU's AML/CFT regime; Review the list of obliged entities currently within the scope of the EU's AML/CFT regime and finally clarify provisions in sectoral financial services legislation.

Consumers Protection

(14/09/2020) FCA – FS20/14: Mortgages and coronavirus: additional guidance for firms – feedback on draft guidance for mortgages

The FCA has published a feedback statement, which summarises, on the one hand, the feedback that FCA received on its proposed measures in order to mitigate the payment difficulty of consumers and, on the other side, the response to this feedback. This additional guidance sets out expectations of the FCA on firms to ensure that: firms continue to provide tailored support to customers facing financial difficulty as a result of coronavirus; customers receive appropriate forbearance that is in their interests after consideration of their individual circumstances; this applies both to customers who have benefitted from payment deferrals under the June guidance and remain in financial difficulty, as well as those who are affected by coronavirus after 31st October 2020; this support reflects the uncertainties and challenges that many customers will face in the coming months. The guidance affects to home finance providers and administrators, and to authorised firms in respect of unregulated agreements to provide credit that is secured on land.

Other publications of interest

Compliance

CONSUMERS PROTECTION

(14/09/2020) FCA – FG20/3: Branch and ATM closures or conversions

The FCA has published a guidance which sets out the expectation that firms should consider the impact of a planned closure or conversion of branches or ATMs on their customers' everyday banking needs. This guidance applies to regulated firms that operate (or have agents operate) branches or ATMs, and who are subject to Principles 6, 7, and 11 of the Principles for Businesses. It applies when such a firm proposes or decides to close or convert such sites, with some limited exceptions. In the 2020 Budget, the Government stated its intention to introduce legislation to protect access to cash for those who need it and the FCA is working closely with the Government on that legislation.

(15/09/2020) FCA – Call for Input: Consumer investments

The Financial Conduct Authority (FCA) has published a Call for Input in order to reduce harm in the Consumer Investment market. This aim was identified as a business priority in the FCA's 2020/21 Business Plan. It is thought that, while much of the consumer investment market meets the goals of retail investors, there are some areas where it is not working as well as it should and where change is needed. Regulating this market will need to balance a consumer's freedom to choose with the need to protect consumers from harm, and the innovation and competition that new entrants bring with the need to stop 'bad actors' thriving. The responses to this Call for Input will be used in putting forward a regulatory framework that enable to realise the ambition of the FCA in the Consumer Investments market.

CERTIFICATION REGIME AND CONDUCT RULES

(17/07/2020) FCA – Extending implementation deadlines for the Certification Regime and Conduct Rules

The FCA has published CP 20/10 on extending implementation deadlines for the Certification Regime and Conduct Rules. This consultation proposes making changes to FCA rules to effect the delay of the deadline to the Certification Regime until 31 March 2021. It also proposes making a corresponding extension to the deadline for training staff in the Conduct Rules and reporting Directory Person data to 31 March 2021. Extending the deadlines will ensure they remain consistent and will provide extra time for firms that need it, and enable them to deliver effective training on the Conduct Rules. The proposals seek to reduce the burden to firms affected by the pandemic, while ensuring that regulatory standards and consumer protection are upheld.

SEC

(17/09/2020) SEC – Publication or Submission of Quotations Without Specified Information

The Securities and Exchange Commission (SEC) is adopting amendments to Rule 15c2-11 under the Securities Exchange Act of 1934, which governs the publication of quotations for securities in a quotation medium other than a national securities exchange, i.e., over-the-counter ("OTC") securities. The amendments are designed to modernize the Rule, promote investor protection, and curb incidents of fraud and manipulation by, among other things: requiring information about issuers to be current and publicly available for broker-dealers to quote their securities in the OTC market; narrowing reliance on certain exceptions from the Rule's requirements; adding new exceptions for the quotations of securities that may be less susceptible to fraud and manipulation; removing obsolete provisions; adding new definitions; and making technical amendments.

FINANCIAL INCLUSION

(21/09/2020) Fed – Federal Reserve Board issues Advance Notice of Proposed Rulemaking on an approach to modernize regulations that implement the Community Reinvestment Act

The Fed has published the Advance Notice of Proposed Rulemaking (ANPR) on an approach to modernize regulations that implement the Community Reinvestment Act (CRA) by strengthening, clarifying, and tailoring them to reflect the current banking landscape and better meet the core purpose of the CRA. The ANPR seeks feedback on ways to evaluate how banks meet the needs of low- and moderate-income communities and address inequities in credit access.

MARKET ABUSE

(24/09/2020) ESMA – ESMA publishes outcomes of MAR review

The European Securities and Markets Authority (ESMA) has published a review of the Market Abuse Regulation (MAR). The Report is the first in-depth review of the functioning of MAR since its implementation in 2016 and its recommendations will feed into the European Commission's (EC) review of MAR. The Report, which follows a 2019 consultation concludes that, overall, MAR has worked well in practice and is fit for purpose. The Report to the EC sets out proposals for targeted amendments in MAR, including on the following issues where ESMA makes recommendations on: market soundings, benchmark provisions, and the interplay between MAR and collective investment undertakings.

Other publications of interest

Compliance

MiFIR / MiFID II

(24/09/2020) ESMA – ESMA consults on MIFIR reference data and transaction reporting

The ESMA has launched a Consultation Paper (CP) reviewing the reference data and transaction reporting obligations under the MiFIR. The CP addresses a wide range of issues, including: i) a possible revision of the ToTV (Traded on a Trading Venue) concept; ii) a revision of the scope of indices subject to the reporting obligation considering the more recent Benchmark Regulation; iii) proposals to remove, replace or further clarify specific data elements that should be reported under the transaction reporting obligation; iv) proposals to ensure further alignment between EMIR and MiFIR reporting regimes considering the EMIR Refit review.

MiFIR / MiFID II

(28/09/2020) ESMA – ESMA publishes draft rules for third-country firms under new MIFIR and MIFID II regimes

The ESMA has published its Final Report containing draft regulatory and implementing technical standards (RTS and ITS) on the provision of investment services and activities in the EU by third-country firms under MiFIR and MiFID II. These changes include new reporting requirements for third-country firms to ESMA on an annual basis, and include the possibility for ESMA to ask third-country firms to provide data relating to all orders and transactions in the EU. New annual reporting requirements from branches of third-country firms to National Competent Authorities (NCA) have also been introduced.

(29/09/2020) ESMA – ESMA proposes amendments to the MiFIR transparency regime for non-equity financial instruments

The ESMA has published the Final Report on the MiFIDII/MiFIR transparency regime applicable to non-equity financial instruments. The proposals contained in the report aim at simplifying and bringing more efficiency to an overly complex regime and fostering harmonised application across the EU. ESMA concluded, following its Consultation Paper on MiFIR Review Report on transparency for non-equity, that the regime was too complicated and not always effective in ensuring transparency for market participants. In consequence, it makes several proposals to the European Commission (EC) to improve the current regime.

Insider trading

(08/10/2020) CNMV – La CNMV publica criterios relativos a la utilización de redes sociales para difundir información privilegiada

The Comisión Nacional del Mercado de Valores (CNMV) has published a statement of criteria for the case of listed companies and other issuers of securities or financial instruments traded using social networks to disseminate insider trading. The requirements set out by the CNMV are that: i) the disclosed information is complete, objective and clear, without it being necessary to resort to sources additional to the original message for its complete understanding, ii) the message clearly contains the indication “Insider trading" and is separated from any promotional or marketing communication, iii) the issuer (full business name) on which the information is based and the communicator are clearly identified, iv) it is produced through a social network of very wide distribution and from accounts with very numerous follow ups, v) it is communicated in a formal and precise manner and that no information is added or qualified in responses or conversations that are essential for the understanding of the information.

Derivatives use

(28/10/2020) SEC – SEC Adopts Modernized Regulatory Framework for Derivatives Use by Registered Funds and Business Development Companies

The Securities and Exchange Commission (SEC) has voted to enhance the regulatory framework for derivatives use by registered investment companies, including mutual funds (other than money market funds), exchange-traded funds (ETFs) and closed-end funds. The new rule and rule amendments will provide a modernized, comprehensive approach to the regulation of these funds’ derivatives use that addresses investor protection concerns and reflects developments over the past decades.

Market abuse

[(29/10/2020) ESMA – ESMA submits two Draft Technical Standards under the revised market abuse regulation to the european commission]

The European Securities and Markets Authority (ESMA), the EU's securities markets regulator, has published the Final Report on the amendments to the Market Abuse Regulation (MAR) for the promotion of the use of SME Growth Markets (SME GMs). These amendments focused on liquidity contracts and insider lists for SME GMs. This final report and draft RTS and ITS largely reflect the original proposals included in the consultation paper focused on the RTS on Liquidity Contracts and the ITS on Insider Lists.

MIFID II/ MIFIR

(06/11/2020) ESMA - ESMA consults on MIFID II/ MIFIR obligations on market data

The ESMA has launched a Consultation Paper seeking input from market participants in relation to its draft guidelines on the MiFID II/MiFIR obligations on market data. The proposed Guidelines build on the assessments and recommendations from a 2019 ESMA Report on Market Data. They provide guidance on the requirement to publish market data on a reasonable commercial basis and the requirement to make market data available free of charge 15 minutes after publication. In addition, this Guidelines will ensure better and uniform application of the MiFID II/MiFIR obligations on market data.

OTC derivatives

(23/11/2020) ESA - ESAs propose to adapt the EMIR implementation timelines for intragroup transactions, equity options and novations to EU counterparties

The European Supervisory Authorities (ESAs) have published a final report with draft regulatory technical standards (RTS) proposing to amend the EC's Delegated Regulation on the risk mitigation techniques for OTC derivatives not cleared by a central counterparties (CCPs) under the European Market Infrastructure Regulation (EMIR). The amendments included in these draft RTS proposed to extend the temporary exemption for 18 months for intragroup transactions and the temporary exemption for single-stock equity options or index options (equity options) for three years.

CRA

(24/11/2020) OCC - OCC Proposes Rule Regarding the CRA General Performance Standards

The Office of the Comptroller of the Currency (OCC) has invited comment on a notice of proposed rulemaking regarding the Community Reinvestment Act's (CRA) general performance standards. The proposal provides the OCC's proposed approach to determine the CRA evaluation measure benchmarks, retail lending distribution test thresholds, and community development minimums under the general performance standards set forth in the 2020 final rule. Also, it explains how the OCC would assess significant declines in CRA activities levels in connection with performance context following the initial establishment of the benchmarks, minimums, and thresholds.

AML/CFT

(14/12/2020) EBA - EBA calls for strengthening the connection between the EU legal frameworks on anti-money laundering and terrorist financing, and deposit protection

The EBA has published an Opinion on how to strengthen the connection between the EU legal frameworks on anti-money laundering and terrorist financing, and deposit protection. The proposals set out in the Opinion are addressed to the European Commission and aim at informing its ongoing reviews of the Anti-Money Laundering Directive (AMLD) and the Deposit Protection Schemes Directive (DGSD). The Opinion is also addressed to the national authorities, to implement some changes already under the current legal framework and ahead of the potential future revisions of the AMLD and DGSD.

Customer Service

(30/12/2020) BdE – Proyecto de guía supervisora sobre los criterios de organización y funcionamiento de los servicios de atención al cliente de las entidades supervisadas

The Bank of Spain (BdE) has published the Draft supervisory guide on the criteria for the organisation and operation of customer services at supervised institutions with the aim of transmitting to institutions the supervisory principles and criteria to be used to assess the organisation and operation of customer services.

[(11/03/2020) ESMA – ESMA recommends action by financial market participants for COVID-19 impact]

The European Securities and Markets Authorities (ESMA) has published a set of recommendations for financial market participants for COVID-19 impact. In particular, these recommendations focus on: i) Business Continuity Planning in order to ensure operational continuity in line with regulatory obligations; ii) disclosure of market information in relation with COVID-19 impact; iii) the transparency of annual reports from securities issuers, mainly taking into account the impact of COVID-19, and iv) fund management.

[(12/03/2020) ECB – Measures to support bank liquidity conditions and money market activity]

The ECB has published additional longer-term refinancing operations (LTROs) to provide immediate liquidity support to banks and to safeguard money market conditions which is goal is to provide an effective backstop if necessary. It is highlighted that operations will be conducted as fixed rate tender procedures with full allotment, and the rate in these operations will be fixed at the average of the deposit facility rate over the life of the respective operation. Interest will be paid on 24 June 2020 that is when operations mature.

[(13/03/2020) EC – COVID-19: Commission sets out European coordinated response to counter the economic impact of the Coronavirus]

The EC has set out a European coordinated response to counter the economic impact of the COVID-19. The main goals of this coordinated action are i) to ensure the necessary supplies to our health systems by preserving the integrity of the Single Market; ii) to support firms and ensure that the liquidity of our financial sector can continue to support the economy; and iii) to avoid permanent effect of this crisis, among other objectives. This coordinated respond will involve measures related to the fiscal framework flexibility, protection of employment and the EC investment initiative of 37 billion of euros under cohesion policy to the fight against the coronavirus crisis, among many others.

[(16/03/2020) IMF – Policy Steps to Address the Corona Crisis]

The International Monetary Fund (IMF) has published a Policy paper (PP) on Policy steps to Address the Corona Crisis with the goal of monitoring, containing and mitigating the effects of the COVID-19. This PP contains recommended actions to provide stability to the global economy and financial markets, boosting confidence, and preventing deep and prolonged economic effects. Recommendations cover different topics like Central Banks providing liquidity to support market functioning or supervisory authorities lowering borrowing costs for households and firms.

[(17/03/2020) EIOPA – Statement on actions to mitigate the impact of Coronavirus/COVID-19 on the EU insurance sector]

The European Insurance and Occupational Pensions Authority (EIOPA) has published a Statement on actions to mitigate the impact of COVID-19 on the EU insurance sector with the aim of providing insurance companies with a set of recommendations on how to perform under this situation. These recommendations focus on business continuity and solvency & capital position, such as extending the deadline of the Holistic Impact Assessment for the 2020 Solvency II Review by two months, to 1 June 2020. Furthermore, EIOPA recommends to use the tools provided by Solvency II framework to ensure that policyholders remain protected and financial stability is safeguarded.

[(18/03/2020) EC – Proposal for a regulation concerning the Coronavirus Response Investment Initiative / Proposal for a regulation extending the scope of the EU Solidarity Fund]

The European Commission (EC) has published two legislative proposal which will free up funds to tackle the effects of the COVID-19 outbreak. The first one regulates the so-called Coronavirus Response Investment Initiative that will make available €37 billion of Cohesion funds to member states to address the consequences of the crisis. The measures introduced in this proposal will support Small and Medium sized Enterprises (SMEs) to alleviate their liquidity shortages as a result of the pandemic. The second legislative proposal extends the scope of the EU Solidarity Fund to cover public health emergencies and complement efforts of the countries concerned.

[(18/03/2020) ECB – €750 billion Pandemic Emergency Purchase Programme]

The European Central Bank (ECB) announced €750 billion Pandemic Emergency Purchase Programme (PEPP) which a set of measures to help with the COVID-19 pandemic. In particular, the Governing Council of the ECB decided: i) To launch a new temporary asset purchase programme of private and public sector securities; ii) to expand the range of eligible assets under the corporate sector purchase programme (CSPP) to non-financial commercial paper, and iii) to ease the collateral standards by adjusting the main risk parameters of the collateral framework.

Other publications of interest

COVID-19

(19/03/2020) BoE – Monetary Policy Summary for the special Monetary Policy Committee meeting on 19 March 2020

The BoE through its Monetary Policy Committee (MPC) decided to increase the BoE's holdings of UK government bonds and sterling non-financial investment-grade corporate bonds by £200 billion to a total of £645 billion, financed by the issuance of central bank reserves. The MPC also decided to reduce Bank Rate by 15 basis points to 0.1%. The MPC also stated that the BoE should enlarge the Term Funding for Small and Medium-sized Enterprises (TFSME) scheme, financed by the issuance of central bank reserves.

(20/03/2020) EIOPA – Recommendations on supervisory flexibility regarding deadlines of supervisory reporting and public disclosure by insurers

The European Insurance and Occupational Pensions Authority (EIOPA) has published a set of recommendations addressed to national competent authorities (NCAs) on supervisory flexibility regarding deadlines of supervisory reporting and public disclosure by insurers. The aim of these recommendations is to offer operational relief in allowing for delays in reporting and public disclousure in the following cases: (i) Annual reporting referring to year-end occurring on 31 December 2019, (ii) Quarterly reporting referring to Q1-2020 and (iii) Solvency and financial condition report referring to year-end occurring on 31 December 2019.

(20/03/2020) ESMA – Position on call taping under MiFID II

The European Securities and Markets Authority (ESMA) has published a Public Statement to clarify issues regarding the application by firms of the MiFID II requirements on the recording of telephone conversations. MiFID II states that mandatory records to be kept by firms include, amongst other things, recording of telephone conversations relating to, at least, transactions concluded when dealing on own account and the provision of client order services that relate to the reception, transmission and execution of orders. ESMA reminds firms that, despite the exceptional circumstances created by the COVID-19 outbreak, if firms are unable to record voice communications, ESMA expects them to consider what alternative steps they could take to mitigate the risks related to the lack of recording.

(20/03/2020) FSB – Coordination of financial sector work to buttress the economy in response to COVID-19

The Financial Stability Board (FSB) has informed that it is actively cooperating to maintain financial stability during market stress related to COVID-19. In particular, the FSB encourages authorities and financial institutions to make use of the flexibility within existing international standards to provide continued access to funding for market participants and for businesses and households facing temporary difficulties from COVID-19, and to ensure that capital and liquidity resources in the financial system are available where they are needed.

(20/03/2020) BIS – Basel Committee coordinates policy and supervisory response to Covid-19

The Bank for International Settlements (BIS) has published a report about the impact of the rapid worldwide spread of the COVID-19 on the global banking system. In particular, this report recognizes that the global banking system is more prepared than before to support shocks like the one produce by the COVID-19 because it has significantly higher levels of capital and liquidity. In addition, member jurisdictions are taking some measures to alleviate the financial stability impact of the COVID-19 and the Basel III framework includes capital and liquidity buffers that are designed to be used in periods of stress.

(24/03/2020) EC – State aid: Commission approves €20 billion Spanish guarantee schemes for companies and self-employed affected by coronavirus outbreak

The European Commission (EC) has published a Staid aid to help Spain with 20 billion euros in order to guarantee schemes for companies (large and SMEs) and self-employed affected by COVID-19 outbreak. The objective of the measure is to ensure that these companies and self-employed have liquidity to help them safeguard jobs and continue their activities faced with the difficult situation caused by the coronavirus outbreak. The EC concludes that the Spanish guarantee schemes for companies and self-employed workers will contribute to managing the economic impact of the coronavirus outbreak in Spain.

(24/03/2020) BoE – Activation of the Contingent Term Repo Facility

The Bank of England (BoE) has announced the activation of the Contingent Term Repo Facility (CTRF) with the aim of alleviating frictions observed in money markets in recent weeks, both globally and domestically, as a result of the economic shock caused by the outbreak of COVID-19. The CTRF is a flexible liquidity insurance tool that allows participants to borrow central bank reserves (cash) in exchange for other, less liquid assets (collateral). CTRF operations will run on 26 March 2020 and 2 April 2020, in addition to the Bank's regular liquidity insurance facilities including the Indexed Long-Term Repo (ILTR) and Discount Window Facility (DWF), and the size of the CTRF operations will be unlimited. The price will be a fixed rate of Bank Rate plus 15bps.

[(27/03/2020) ECB – Recommendation of the European Central Bank on dividend distributions during the COVID-19 pandemic and repealing Recommendation]

The European Central Bank (ECB) has published a recommendation on dividend distributions during the COVID-19 pandemic, which purpose is to help credit institutions conserve capital to retain their capacity to support the real economy in an environment of heightened uncertainty. In order to achieve it, the ECB considers that absorbing losses should take priority at present over discretionary dividend distributions and share buy-backs, and recommends that at least until 1 October 2020 no dividends are paid out and no irrevocable commitment to pay out dividends is undertaken by the credit institutions for the financial year 2019 and 2020 and that credit institutions refrain from share buy-backs aimed at remunerating shareholders.

(31/03/2020) ESMA – Clarifications for best execution reports under MIFID II

The ESMA has published a Public Statement to clarify issues regarding the publication of the general best execution reports required under RTS 27 and 28 of MiFID II, in light of the COVID-19 pandemic. ESMA encourages National Competent Authorities (NCAs) not to prioritise supervisory action in respect of the deadlines of the general best execution reports. Furthermore, ESMA encourages NCAs to generally apply a risk-based approach in the exercise of supervisory powers in their day-to-day enforcement of RTS 27 and 28.

(31/03/2020) PRA – Statement on deposit takers' approach to dividend payments, share buybacks and cash bonuses in response to Covid-19

The Prudential Regulation Authority (PRA) has published a Statement on deposit takers' approach to dividend payments, share buybacks and cash bonuses in response to COVID-19 with the aim of strengthening banks' capital positions more than sufficient to accommodate the combined simultaneous impact of severe UK and global recessions and financial markets shocks. PRA welcomes the decisions by the boards of the large UK banks to suspend dividends and buybacks on ordinary shares until the end of 2020, and to cancel payments of any outstanding 2019 dividends. Also it expects banks not to pay any cash bonuses to senior staff and vesting of variable remuneration over coming months.

(01/04/2020) EIOPA – Statement to continue to take actions to mitigate the impact of Coronavirus/COVID-19 on consumers

The European Insurance and Occupational Pensions Authority (EIOPA) has published a Statement to insurers and intermediaries, urging them to take steps to mitigate the impact of COVID-19 on consumers. The goal of this Statement is to continue treating consumers in a fairly way and keep providing access and continuity of service. The recommendations include: i) providing clear and timely information to consumers; ii) keeping consumers informed about contingency measures that have been put in place; iii) continuing to apply product oversight and governance requirements; and iv) exercising flexibility in the treatment of consumers where reasonable and practical.

(02/04/2020) ESMA – Updates its Risk Assessment in light of the COVID-19 Pandemic

According to the European Securities and Markets Authority (ESMA), the pandemic, in combination with existing valuation risks, has led to large equity market corrections since mid-February, driven by a sharp deterioration in the outlook for consumers, businesses and of the economic environment. In this context, ESMA sees a prolonged period of risk to institutional and retail investors of market corrections and very high risks across the whole of ESMA's remit.

(02/04/2020) FSB – Addressing financial stability risks of COVID-19

The Financial Stability Board (FSB) has published a set of measures to address financial stability risk of COVID-19 with the goal of cooperating actively to maintain financial stability during market stress related to COVID-19. This work includes: i) regularly sharing information on evolving financial stability threats and on the policy measures that financial authorities are taking; ii) assessing financial risks and vulnerabilities in the current environment; and iii) coordinating policy responses to maintain global financial stability, keep markets open and functioning, and preserve the financial system's capacity to finance growth. Furhermore, the FSB is also re-prioritising its work programme for 2020.

(03/04/2020) BCBS / IOSCO – Deferral of final implementation phases of the margin requirements for non-centrally cleared derivatives

The BCBS and the IOSCO have published the deferral of final implementation phases of the margin requirements for non-centrally cleared derivatives by one year in light of the significant challenges posed by Covid-19. The aim of this measure is to provide additional operational capacity for firms to respond to the immediate impact of Covid-19 and at the same time, facilitate covered entities to act diligently to comply with the requirements by the revised deadline. With this extension, the final implementation phase will take place on 1 September 2022.

Other publications of interest

COVID-19

(09/04/2020) EU Council – Report on the comprehensive economic policy response to the COVID-19 pandemic

The EU Council has published a report on the comprehensive economic policy response to the COVID-19 pandemic which assesses the measures that have been adopted to minimize the effects of the COVID-19 pandemic. In particular, this report focuses on the coordinated actions taken at the level of the Member States, the EU and the euro area, and the additional crisis response instruments and measures to prepare the ground for the economic recovery.

(16/04/2020) Fed – New Small Business Administration's Paycheck Protection Program

The Fed will establish a facility to facilitate lending to small businesses via the Small Business Administration's Paycheck Protection Program (PPP) by providing term financing backed by loans. The Small Business Administration's PPP, guarantees loans extended by qualified lenders to small businesses so that those businesses can keep workers employed. The Federal Reserve's facility will support the effectiveness of the PPP by extending credit to financial institutions that make PPP loans, using such loans as collateral. Supplying financial institutions with additional liquidity will help increase their capacity to make PPP loans.

(23/04/2020) Fed – Expansion of access to the Paycheck Protection Program Liquidity Facility (PPPLF) for additional SBA-qualified lenders / Temporary actions aimed at increasing the availability of intraday credit / Timely public information regarding Fed’s program to support the flow of credit to households and businesses and thereby foster economic recovery

The Federal Reserve (Fed) has published three announcements regarding credit and liquidity. The first one, informs that the Fed is working to expand access to its Paycheck Protection Program Liquidity Facility (PPPLF) for additional SBA-qualified lenders as soon as possible. The second one, notifies that the Fed has carried out temporary actions aimed at increasing the availability of intraday credit extended by Fed Banks on both a collateralized and uncollateralized basis, in order to support the flow of credit to households and businesses and to mitigate the disruptions from COVID-19. Finally, the third announcement informs that the Fed has outlined the extensive and timely public information it will make available regarding its programs to support the flow of credit to households and businesses and thereby foster economic recovery. In particular, the Fed will report substantial amounts of information on a monthly basis for the liquidity and lending facilities using Coronavirus Aid, Relief, and Economic Security, or CARES, Act funding, including the names and details of participants in each facility; the amounts borrowed and interest rate charged, and the overall costs, revenues, and fees for each facility.

(27/04/2020) Fed – Expansion of the scope and duration of the Municipal Liquidity Facility

The Federal Reserve (Fed) has announced an expansion of the scope and duration of the Municipal Liquidity Facility (MLF). This facility, is a part of an initiative to provide up to $2.3 trillion in loans to support the U.S. economy. In particular, the revision of the MLF, makes the following amendments: i) It increases the number of entities that are allowed to borrow directly from the MLF by purchasing short-term notes issued by U.S. states, counties and citites; ii) it increases in 12 months the maximum maturity date of notes, and iii) the termination date for the facility has been extended to December 31, 2020 in order to provide eligible issuers more time and flexibility.

(27/04/2020) PRA – Statement on the regulatory treatment of the UK Coronavirus Business Interruption Loan Scheme (CBILS) and the UK Coronavirus Large Business Interruption Loan Scheme (CLBILS)

The Prudential Regulation Authority (PRA) has published a statement in response to HM Treasury’s announced changes to UK coronavirus business interruption loan schemes: the Coronavirus Business Interruption Loan Scheme (CBILS) and the Coronavirus Large Business Interruption Loan Scheme (CLBILS). In particular, this statement sets out: That the terms of the guarantees of the schemes do not contain features that would render these guarantees ineligible for recognition as unfunded credit risk protection, and that some of the CBILS guarantees exclude cover for interest and fees so, in accordance with the Capital Requirement Regulation (CRR), firms recognising the CBILS guarantee as eligible unfunded protection in relation to an exposure are required to adjust the exposure amount to exclude elements not covered by the CBILS guarantee.

[(29/04/2020) ECB – Communication to reporting agents on the extension of deadlines for the reporting of statistical information in the context of COVID-19]

The European Central Bank (ECB) has published a communication to reporting agents on the extension of deadlines for the reporting of statistical information in the context of COVID-19. In particular, the ECB has decided to postpone the following remittance dates: regarding the Insurance Corporations statistics (Regulation (EU) No 1374/2014) the remittance date of the annual data is postponed from 7 April 2020 to 2 June 2020 and the quarterly remittance dates will be delayed from 5 May 2020 to 12 May 2020; according to the Pension Funds statistics (Regulation (EU) 2018/231) the remittance date of the annual data is postponed from 16 June 2020 to 11 August 2020 and the quarterly remittance dates will be delayed from 2 June 2020 to 16 June 2020; and with respect to the Payment statistics (Regulation (EU) No 1409/2013) the remittance date is postponed from 29 May 2020 to 26 June 2020.

[(29/04/2020) FSI – FSI Briefs Nº5. Public guarantees for bank lending in response to the COVID-19 pandemic]

The FSI of the BIS has published a brief on public guarantees for bank lending in response to the COVID-19 pandemic, which analyses the guarantee programmes on bank loans that some governments are offering to non-financial companies. It is also explained the design of such programs, and how it needs to strike a difficult balance between responding promptly to the pandemic and maintaining a sufficient level of prudence. Furthermore, the incentives that were created for the banks to join these programmes by exploiting flexibility in existing prudential requirements, while central banks have often provided liquidity support, are analysed.

[(30/04/2020) Fed – Expansion of access to the Paycheck Protection Program Liquidity Facility (PPPLF) to additional lenders]

The Fed has expanded access to its Paycheck Protection Program Liquidity Facility (PPPLF) to additional lenders, and expanded the collateral that can be pledged with the objective of facilitate lending to small businesses via the Small Business Administration's (SBA) Paycheck Protection Program (PPP). In particular, as a result of the changes all PPP lenders approved by the SBA, including non-depository institution lenders, are now eligible to participate in the PPPLF and eligible borrowers will be able to pledge whole PPP loans that they have purchased as collateral to the PPPLF.

[(02/05/2020) BoE – Update of the TFSME to reflect HMT's new Bounce Back Loans Scheme]

The BoE has announced a change to the Term Funding Scheme with additional incentives for small and medium sized enterprises (TFSME) and the UK leverage ratio, in order to support HM Treasury's Bounce Back Loans Scheme (BBLS). In particular, to further support lending through the BBLS, TFSME participants will be able to extend the term of some of the cheap funding they access via the TFSME to align with the 6-year term of loans made through the BBLS.

[(06/05/2020) BoS – Aplicación de la flexibilidad permitida la normativa en relación a fondos propios y pasivos admisibles (MREL) ante el impacto del COVID-19]

The Bank of Spain (BoS) has announced that it will apply to the institutions under its responsibility the discretion and flexibility granted by the legal system to comply with the obligations within the scope of the resolution, in line with the measures adopted by the Single Resolution Board (SRB). In particular, these measures aim to ensure that, while the current exceptional circumstances persist, the short-term Minimum Requirement for own funds and Eligible Liabilities (MREL) do not prevent credit institutions from providing funding to businesses and households.

[(06/05/2020) BIS/FSI – Banks' dividends in COVID-19 times]

The Financial Stability Institute (FSI) of the Bank for international Settlements (BIS) has published the FSI Briefs on Banks' dividends in COVID-19 times with the aim of describing how regulatory distribution constraints operate under Basel III and discusses how that standard has been applied in some jurisdictions. Further, it takes stock of recent supervisory actions aimed at capital conservation. Most authorities have undertaken initiatives in relation to banks' distribution policies in the COVID-19 pandemic environment focusing on preserving banks' lending activity without jeopardising their solvency.

[(06/05/2020) BCBS – BIS Bulletin nº 11]

The BCBS has published the BIS Bulletin nº 11 about releasing bank buffers to cushion the COVID-19 crisis with the aim to provide a quantitative assessment of this measure. The Bulletin answer questions such as how much capital could be released to support lending or how much capital would be available globally. It is highlighted that the amount of additional lending will depend on how hard banks' capital is hit by the crisis, on their willingness to use the buffers and on other policy support.

Other publications of interest

COVID-19

(07/05/2020) BoE – Monetary Policy Report May 2020 / Interim Financial Stability Report May 2020

The BoE has published its quarterly Monetary Policy Report alongside an interim Financial Stability Report which together provide a scenario for the path of the UK economy in the light of COVID-19 and assess the financial system's resilience to that scenario. In particular, this reports recognize that the COVID-19 is dramatically reducing jobs and incomes in the UK so the BoE is supporting households and businesses by keeping interest rates low and helping banks to expand lending. These measures will help the economy recover and keep the financial system safe and stable.

(07/05/2020) FSRIF – Regulatory Initiatives Grid

The Financial Services Regulatory Initiatives Forum (FSRIF) has launched the Regulatory Initiatives Grid in order to help financial firms prepare for upcoming regulatory work arising from the COVID-19 pandemic. In particular, this grid lays out planned timetable for major initiatives, like the transition from LIBOR and the introduction of financial services legislation to prepare for the end of the EU withdrawal transition period, and also highlights initiatives that have been cancelled or delayed to ease the burden on financial services firms during the crisis (e.g. the Bank of England's 2020 annual stress test).

(12/05/2020) FDIC – Notice of Proposed Rulemaking: Assessments, Mitigating the Deposit Insurance Assessment Effect of Participation in the Paycheck Protection Program (PPP), the PPP Lending Facility (PPPLF), and the Money Market Mutual Fund Liquidity Facility (MMLF)

The FDIC has issued a Proposed rule to mitigate the Deposit Insurance Assessment Effect of participation in the PPP, the PPPLF, and the MMLF with the aim to mitigate the deposit insurance assessment effects of holding PPP loans, pledging loans to the PPPLF, and purchasing assets under the MMLF. In particular, the proposed changes would: i) remove the effect of participation in the PPP and PPPLF on various risk measures used to calculate an insured depository institution's (IDI) assessment rate, ii) provide an offset to an insured depository institution's assessment for the increase to its assessment base attributable to participation in the MMLF and PPPLF, and iii) remove the effect of participation in the PPPLF and MMLF programs when classifying insured depository institutions as small, large, or highly complex for assessment purposes.

(14/05/2020) ESMA – Risk Dashboard

The European Securities and Markets Authority (ESMA) has published the Risk Dashboard (RD) for 2020 which informs about the new risk landscape derived from the COVID-19 pandemic. In particular since the end of 1Q2020 markets have seen a remarkable rebound, not least in light of massive public policy interventions in the EU and elsewhere. This RD foresees a prolonged period of risk to institutional and retail investors of further market corrections, and the extend to what these risks will further materialise will critically depend on two drivers: the economic impact of the pandemic, and any occurrence of additional external events in an already fragile global environment.

(18/05/2020) Eurofound – COVID-19 EU PolicyWatch

The European Foundation for the Improvement of Living and Working Conditions (Eurofound) has published the COVID-19 EU Policy Watch which aims to map measures introduced to cushion the social and economic effects on businesses, workers and citizens, and also includes information on the role played by social partners in the design and implementation of the measures. In particular, this Policy Watch database contains policy measures and collective agreements of different countries, giving for each case a short description of the regulatory background, followed by a summary of the content of the measures, target groups and eligibility criteria, the main actors involved in its design and implementation.

(18/05/2020) EIOPA – European insurers Risk Dashboard of the 4Q 2019

The European Insurance and Occupational Pensions Authority (EIOPA) has published its updated Risk Dashboard based on the fourth quarter 2019 Solvency II data. The goal is to summarises the main risks and vulnerabilities in the EU insurance sector through a set of risk indicators of the fourth quarter of 2019 complemented with market data and other available information. Despite some information used do not capture the latest market development in the context of Covid-19 outbreak, its impact has been taken into account. The results show that the risk exposures of the EU insurance sector increased as the outbreak of Covid-19 strongly affected the lives of all European citizens with disruptions in all financial sectors and economic activities. Market developments point to a "double-hit" scenario negatively affecting insurers on both asset and liability side as tested in previous stress test exercises.

[(19/05/2020) BoE – Joint HM Treasury and Bank of England Covid Corporate Financing Facility (CCFF) – Consolidated Market Notice 19 May 2020 / Consolidated Market Notice: Asset Purchase Facility: Gilt Purchases]

The BoE and HM Treasury have published a Consolidated Market Notice that describes the operation of the Covid Corporate Financing Facility (CCFF) and updates and replaces all the previous Market Notices in relation to CCFF. In particular, this Market Notice is divided into the following sections: i) Operation of the Facility; ii) length of Facility; iii) financing of the CCFF; iv) eligible issuers; v) conditions of use; vi) eligible securities; vii) limits on the BoE's holdings; viii) eligible counterparties; ix) prices; x) submission of offers; xi) early repayment; xii) settlement arrangements; xiii) published information, and xiv) applications to participate. Furthermore, the BoE has published a Market Notice that sets out the arrangements that apply to the purchase of gilts financed by central bank reserves as authorised by the Monetary Policy Committee (MPC).

(19/05/2020) BoE – Update to the Covid Corporate Financing Facility (CCFF)

The BoE and HM Treasury have published an update to the terms of the Covid Corporate Financing Facility (CCFF) with the aim of promoting the ability of companies to repay their borrowings from the facility in an orderly way after the Scheme closes to new drawings in March 2021. The update has two main components: (i) all businesses that wish to draw from the CCFF for a term extending beyond 19 May 2021 will be expected to create incentives for, and promote the ability of, businesses to repay their borrowings from the CCFF where they mature after the Facility is expected to close; and (ii) businesses that have drawn under the CCFF are now able to repay their drawings early if they choose to do so.

(20/05/2020) Fed/FDIC/NCUA/OCC – Interagency Lending Principles for Offering Responsible Small-Dollar Loans

The Fed Board, FDIC, NCUA, and OCC (the agencies) have published the Interagency Lending Principles for Offering Responsible Small-Dollar Loans with the aim of meeting in a responsible manner financial institutions customers' short-term credit needs, including periods of economic stress, natural disasters, or other extraordinary circumstances such as the public health emergency created by COVID-19. Among the core lending principles of small-dollar loan products stand out: (i) loan products are consistent with safe and sound banking, treat customers fairly, and comply with applicable laws and regulations; (ii) financial institutions effectively manage the risks associated with the products they offer, including credit, operational, and compliance; and (iii) loan products are underwritten based on prudent policies and practices governing the amounts borrowed, frequency of borrowing, and repayment requirements.

(22/05/2020) FCA – Mortgages and coronavirus: updated draft guidance for firms

The Financial Conduct Authority (FCA) has published an updated draft guidance for mortgage lenders, mortgage administrators, home purchase providers and home purchase administrators, that applies only in the exceptional circumstances arising out of COVID-19 and its impact on the financial situation of customers of home finance providers. In particular, this guidance focuses on payment deferrals and stablishes a set of rules regarding: Payment deferral to customers that did not have one yet or that had a payment shortfall, fair treatment of customers at the end of a payment deferral period, understanding customers' needs and circumstances, full payments and if a customer is able or not to resume them and interaction with the Mortgages Conduct of Business Sourcebook (MCOB) provisions; among other rules.

(22/05/2020) PRA – Statement re guidance on the application of regulatory capital and IFRS 9 requirements to payment holidays granted or extended to address the challenges of Covid-19

The PRA has published a statement on re guidance on the application of regulatory capital and IFRS 9 requirements to payment holidays granted or extended to address the challenges of Covid-19, which focuses on mortgage products. In particular, this statement stablishes that eligibility for, and use of, COVID-19 related payment deferrals or extensions to those deferrals granted in accordance with the FCA's proposed guidance would not automatically result in a loan: i) being regarded as having suffered a significant increase in credit risk ('SICR') or being credit-impaired for ECL purposes, or ii) triggering a default under CRR.

Other publications of interest

COVID-19

(08/06/2020) ESRB / EIOPA / BoE / PRA – The ESRB takes second set of actions in response to the COVID-19 / EIOPA supports the ESRB's call on enhanced monitoring of liquidity risks in the insurance sector / Joint statement by the BoE and PRA on the ESRB recommendations for the restriction of distributions

The European Systemic Risk Board (ESRB) has announced a second set of actions in response of the COVID-19 pandemic. Among the actions, it can be highlighted the establishment of an EU-wide framework to monitor the financial stability implications of the support measures. With this framework, the ESRB intends to complement and enhance what is being done at the national level by fostering the exchange of experiences and early identification of cross-sectoral and cross-border issues. The EIOPA has announced its support to the views expressed by the ESRB regarding the importance of improving the monitoring of liquidity risks in the insurance sector with the aim to enhance Europe's preparedness to potential future shocks. Meanwhile, the BoE and the Prudential Regulation Authority have note that in the context of the UK's withdrawal from the EU, this Recommendation applies to UK authorities during the transition period.

(08/06/2020) Fed – Federal Reserve Board expands its Main Street Lending Program to allow more small and medium-sized businesses to be able to receive support

The Federal Reserve (Fed) has expanded its Main Street Lending Program to allow more small and medium-sized businesses to be able to receive support. The Fed lowered the minimum loan amount, raised the maximum loan limit, adjusted the principal repayment schedule to begin after two years, and extended the term to five years, providing borrowers with greater flexibility in repaying the loans. Furthermore, the Fed expects the Main Street program to be open for lender registration soon and to be actively buying loans shortly afterwards.

(09/06/2020) EP – COVID-19: Revised rules to encourage banks to lend to companies and households

The Economic and Monetary Affairs Committee of the European Parliament have approved more flexibility in EU banks prudential rulebook to focus on lending to the COVID-19 stricken economy. Among the adopted changes, it can be highlighted the extension by two years of the transitional arrangements for IFRS 9, deferred application of the leverage ratio buffer by one year to January 2023 and that banks will no longer be required to deduct certain software assets from their capital, supporting an accelerated digitalisation of the banking sector.

(09/06/2020) ECB – ECB report shows areas for improvement in banks' lending standards before the COVID-19 crisis

The ECB has published a report on banks' credit underwriting standards, which highlights some weaknesses in the way banks have granted and priced new loans in recent years. The report, which is based on data on new lending by banks from 2016 to 2018, contains a number of industry-wide findings, including that banks with high levels of non-performing loans (NPLs) tended to grant housing loans more conservatively than other banks and that not all banks paid sufficient attention to risk-based pricing, particularly to ensure that loan pricing at least covered expected losses and costs.

(09/06/2020) ESMA – ESMA extends deadline for responses to consultation on EMIR REFIT

The ESMA has decided, in view of the effects of the ongoing COVID-19 pandemic on stakeholders and market participants, to extend the response date for the consultation on the technical standards on reporting, data quality, data access and registration of Trade Repositories under EMIR REFIT from 19 June to 3 July 2020.

(11/06/2020) ESMA – ESMA publishes statement on MiFIR open access and COVID-19

The ESMA has issued a public statement to clarify the application of the MiFIR open access provisions (OAP) for trading venues (TVs) and central counterparties (CCPs) in light of the recent adverse developments related to COVID-19. It also aims to coordinate the supervisory actions of national competent authorities (NCAs) by setting out the issues they should consider when assessing OAP requests. NCAs are expected to take into consideration, to the extent relevant, the relevant adverse developments when taking decisions on open access requests.

(12/06/2020) EC – Commission Statement on consulting Member States on proposal to expand State aid Temporary Framework to further support micro, small and start-up companies and incentivise private investments

The EC has sent to Member States for consultation a draft proposal to further extend the scope of the State aid Temporary Framework adopted on 19 March 2020 to support the economy in the context of the coronavirus outbreak. The EC is proposing to further extend the scope of the Temporary Framework by enabling Member States (i) to support certain micro and small enterprises, including start-ups that were already in difficulty before 31 December 2019, and (ii) to provide incentives for private investors to participate in coronavirus-related recapitalisation measures.

(12/06/2020) EIB – New EIB report: Banks in Central, Eastern and Southeastern Europe revise outlook for the coming months sharply

The European Investment Bank (EIB) has published a report which provides insights into banking group activities and business expectations in Central, Eastern and Southeastern Europe (CESEE). The report analyses portfolios, demand and supply for financing and the development of non-performing loans. The report includes a special analysis on banking group expectations before and after the impact of the coronavirus pandemic. According to the report, the banking sector in CESEE is likely to face one of its worst years since the global financial crisis in 2007-2008 due to the coronavirus pandemic. From a banking sector perspective, the region entered the crisis on a strong footing, with easing credit standards and robust demand for loans in the past six months.

(15/06/2020) Fed – Federal Reserve Board announces updates to Secondary Market Corporate Credit Facility (SMCCF), which will begin buying a broad and diversified portfolio of corporate bonds to support market liquidity and the availability of credit for large employers

The Fed announced updates to the Secondary Market Corporate Credit Facility (SMCCF), which will begin buying a broad and diversified portfolio of corporate bonds to support market liquidity and the availability of credit for large employers. The SMCCF will purchase corporate bonds to create a corporate bond portfolio that is based on a broad, diversified market index of U.S. corporate bonds. This index is made up of all the bonds in the secondary market that have been issued by U.S. companies that satisfy the facility's minimum rating, maximum maturity, and other criteria. This indexing approach will complement the facility's current purchases of exchange-traded funds.

(18/06/2020) EBA – EBA extends deadline for the application of its Guidelines on payment moratoria to 30 September

The EBA has decided to extend the application date of its Guidelines on legislative and non-legislative moratoria to 30 September 2020. With EU economies not yet fully opened, this extension shows the importance of a continued support to the measures taken by banks to extend loans in response to the extraordinary nature of the current situation. This extension would ensure that adequate treatment for borrowers is available across the EU, considering that the Covid-19 crisis has been affecting EU countries in a different way and at a different pace.

(18/06/2020) FCA – Updated guidance for firms: Personal loans and coronavirus / Credit cards and coronavirus / Overdrafts and coronavirus / Credit cards and personal loans instrument

The Financial Conduct Authority (FCA) has updated its guidance for firms related to the COVID-19 outbreak. The temporary guidances that have been updated are the ones related to: i) personal loans and coronavirus ii) credit cards (including retail revolving credit) iii) overdrafts and iv) COVID-19 credit cards and personal loans instrument.

(19/06/2020) EP – COVID-19: Easing rules to encourage banks to lend to companies and households

The European Parliament (EP) has approved an amended to the capital requirement regulation (CRR) to temporarily ensure favourable conditions for banks. This will support credit flows to companies and households and absorb losses, mitigating the economic consequences of the COVID-19 lock-down. The adopted changes include: i) deferred application of the leverage ratio buffer by one year to January 2023; ii) pensioners or employees with a permanent contract will be able to get a loan under more favourable prudential conditions; iii) advanced application of both the SME and infrastructure supporting factor; iv) banks will now be able to treat some software as their own capital, an exemption that will kick in earlier than planned; and v) liquidity measures provided by central banks in a crisis context will be effectively channelled by banks to the economy.

(19/06/2020) BoE – Update on the Contingent Term Repo Facility (CTRF) / Changes to the provision of US dollar repo operations from July 2020

The Bank of England (BoE) has announced that, in light of continued improvements in funding market conditions and recent usage patterns, it will discontinue 1-month Contingent Term Repo Facility (CTRF) operations at the end of June 2020. The final operation is scheduled to take place on 26 June 2020. Furthermore, the BoE, in co-ordination with other central banks, has decided to reduce the frequency of 7-day maturity operations from daily to three times per week commencing 1 July 2020, which provide liquidity via the standing US dollar liquidity swap line arrangements.

(22/06/2020) FASB – Q&A document on how to apply the taxonomy to COVID-19 pandemic and relief measures

The Financial Accounting Standards Board (FASB) Taxonomy staff has issued a question-and-answer document (Q&A) that responds to frequently asked questions about the application of the US Generally Accepted Accounting Principles (GAAP) Financial Reporting to disclosures related to the effects of the coronavirus pandemic and relief efforts. The FASB developed this Q&A to provide information on applying the Taxonomy related to disclosures for this unique and evolving situation on the basis of the information and feedback it has received to date.

Other publications of interest

COVID-19

(22/06/2020) OCC – Interim Final Rule Reduces Assessments in Response to COVID-19

The OCC has approved an interim final rule (IFR) that will reduce assessments due to be paid to the OCC on September 30, 2020. The OCC is providing this relief in response to the impact of the national emergency related to coronavirus. Under the IFR, assessments due on September 30, 2020, for national banks, federal savings associations, and federal branches and agencies of foreign banks will be calculated using the December 31, 2019, "Consolidated Reports of Condition and Income" for each institution, rather than the June 30, 2020 call report, unless this one is lower. This change will result in lower assessments for most OCC-supervised banks and ensures all banks pay the lower of the two options.

(23/06/2020) Fed – Federal and state regulatory agencies issue examiner guidance for assessing safety and soundness considering the effect of the COVID-19 pandemic on financial institutions

The Fed, Federal Deposit Insurance Corporation (FDIC), Office of the Comptroller of the Currency (OCC) and National Credit Union Administration (NCUA) in conjunction with the state bank and credit union regulators have issued examiner guidance to promote consistency and flexibility in the supervision and examination of financial institutions affected by the COVID-19 pandemic. However, no action on the part of supervised institutions is required. The interagency guidance instructs examiners to consider the unique, evolving, and potentially long-term nature of the issues confronting institutions due to the COVID-19 pandemic and to exercise appropriate flexibility in their supervisory response.

(25/06/2020) ECB – New Eurosystem repo facility to provide euro liquidity to non-euro area central banks

The European Central Bank (ECB) has decided to set up a new backstop facility, called the Eurosystem repo facility for central banks (EUREP), to provide precautionary euro repo lines to central banks outside the euro area. EUREP addresses possible euro liquidity needs in case of market dysfunction resulting from the COVID-19 shock that might adversely impact the smooth transmission of ECB monetary policy. Under EUREP, the Eurosystem will provide euro liquidity to a broad set of central banks outside the euro area against adequate collateral, consisting of euro-denominated marketable debt securities issued by euro area central governments and supranational institutions. EUREP will be available until the end of June 2021.

(29/06/2020) Fed – Federal Reserve Board releases new term sheet for the Primary Market Corporate Credit Facility, adding pricing and other information / FAQs

The Fed has released a new term sheet for the Primary Market Corporate Credit Facility (PMCCF), adding pricing and other information. As detailed in an FAQ released this week, pricing will be issuer-specific and informed by market conditions. Prices will also be subject to minimum and maximum spreads over comparable maturity Treasury securities. By standing ready to provide credit to qualifying issuers of corporate bonds in periods of stress, the PMCCF serves as a funding backstop, supporting market liquidity and the availability of credit for large employers.

(29/06/2020) OCC – OCC Highlights Key Risks for Federal Banking System

The OCC has reported the key issues facing the federal banking system and the effects of the COVID-19 pandemic on the federal banking industry in its Semiannual Risk Perspective for Spring 2020. Banks entered the national health emergency related to COVID-19 in sound condition but face weak economic conditions resulting from the economic shutdown in response to the pandemic that will stress financial performance in 2020. The OCC reported weak financial performance, and increasing credit, operational, and compliance risks, among the key risk themes in the report. The report covers risks facing national banks and federal savings associations based on data as of December 31, 2019. The report presents information in four main areas: the operating environment, bank performance, special topics in emerging risk, and trends in key risks.

(03/07/2020) FCA – COVID Temporary guidance updates: Credit cards / Personal loans / Overdrafts / Motor finance and high cost credit instrument / High-cost short-term credit

The Financial Conduct Authority (FCA) has updated some of its temporary guidance for firms which apply during the exceptional circumstances arising out of the COVID-19 pandemic and its impact on the financial situation of the customers. In particular, the temporary guidances that have been updated are related to: credit cards (including retail revolving credit), personal loans, overdrafts, motor finance and high cost credit instrument and high-cost short-term credit.

[(03/07/2020) BoS – Nota informativa sobre la aplicación de las moratorias legislativas y sectoriales de deudas hipotecarias y de créditos sin garantía hipotecaria]

The BoS has published a note on the application of the legal and sectoral moratoria on mortgage debt and unsecured loans until 30 June 2020. This note highlights that the number of requests for legal moratoria with mortgage guarantees reached 272,149, of which 226,285 had been processed. The outstanding balance of suspended loans reached 20,370 million. Requests for a legal moratoria on non-mortgage credit agreements reached 428,113, of which 364,407 had been processed. The pending amount of repayment of the suspended loans was 2,719 million euros.

[(06/07/2020) Gob. España – Real Decreto-ley 25/2020, de 3 de julio, de medidas urgentes para apoyar la reactivación económica y el empleo]

The Spanish Government has approved the Royal Decree-Law 25/2020 on urgent measures to support economic recovery and employment by the COVID-19. This Royal Decree-Law is added to those that have been approved over the last few weeks in an attempt to mitigate the effects of COVID-19 on the Spanish economy. Specifically, the latest decree focuses on a set of measures to reactivate the renewable energy market and on support plans for the tourism and motor industry. It also includes a provision to strengthen R+D+I mechanisms, through the establishment of rules to arbitrate public-private collaboration mechanisms for health projects related to COVID-19.

[(07/07/2020) PRA – PRA Statement to insurers on the application of the matching adjustment during Covid-19]

The PRA has published a statement to insurers on the application of the matching adjustment portfolio (MAP) during COVID-19. The PRA considers that the matching adjustment (MA) has functioned as intended thus far throughout the Covid-19 crisis. Nevertheless, the PRA has identified some areas where it may be useful to provide clarifications to ensure consistency in firms' interpretation of the PRA's policy. While the focus of this statement is on the MA, Covid-19 may affect firms' views of prospective risks.

[(08/07/2020) EIOPA – EIOPA clarifies supervisory expectations on product oversight and governance requirements in the context of COVID-19]

The European Insurance and Occupational Pensions Authority (EIOPA) has issued a statement calling on insurance companies to review their product oversight and governance measures because of the potential impact the COVID-19 pandemic can have on products and their utility for customers. It is vitally important that insurance companies place the fair treatment of customers at the heart of their response to the COVID-19 pandemic. Insurance manufacturers are asked to identify products whose main features, risk coverage or guarantees have been materially affected by the COVID-19 pandemic. If such products no longer offer value to the target market, insurers should assess whether there is the risk of possible unfair treatment. The assessment should be on a medium to longer term basis, to take into account product lifecycles and the evolution of the impacts of the COVID-19 pandemic.

[(09/07/2020) ESMA – ESMA clarifies external support within the meaning of Article 35 of the MMF Regulation]

The European Securities and Markets Authority (ESMA) has published a public statement on external support under Article 35 of the Money Market Funds (MMF) Regulation. The ESMA is issuing this statement in the context of financial markets authorities recent actions to mitigate the impact of COVID-19 on the EU's financial markets, to clarify the potential interaction between the intermediation of credit institutions and the requirements of Article 35 of the MMF Regulation on external support. It also aims to coordinate the supervisory approaches of national competent authorities (NCAs) in light of liquidity challenges for MMFs in the context of the current COVID-19 pandemic.

[(09/07/2020) EBA – EBA calls on resolution authorities to consider the impact of COVID-19 on resolution strategies and resolvability assessments]

The EBA has published a statement on resolution planning in light of the COVID-19 pandemic. With this statement, the EBA intends to reiterate the importance of resolution planning in times of uncertainty to ensure that resolution stands as a credible option in times of stress. In addition, the EBA highlights the importance for resolution authorities to continue promoting institutions' efforts to enhance their capabilities and increase their resolvability. Resolution authorities should take into account the impact of COVID-19 on banks and their business models when taking decisions on resolution plans and on the minimum requirement for own funds and eligible liabilities (MREL). In addition, resolution authorities should use and test resolution colleges as the main fora to exchange information and share decisions in these times of stress.

Other publications of interest

COVID-19

[(09/07/2020) PRA – CP6/20 Financial Service Compensation Scheme – Temporary High Balances Coverage Extension]

The Prudential Regulation Authority (PRA) has published consultation paper CP6/20 that sets out the PRA's proposal to extend coverage under the Financial Services Compensation Scheme (FSCS) for Temporary High Balances (THBs), from six months to twelve months from the date of deposit, or the first date the THB becomes legally transferable to the depositor. The proposed extension of coverage would be for a temporary period, and is being proposed in response to the impact of COVID-19 on residential property and investment markets, and access to banking services for some depositors. THB coverage would revert back to six months from Monday 1 February 2021. The policy proposals included in this CP are: i) to extend THB coverage up until, and including, Sunday 31 January 2021, from six months to twelve months; and ii) to revert back to a six-month THB coverage on Monday 1 February 2021.

[(14/07/2020) EC – Best practices agreed by the financial sector and consumer and business organisations to help further mitigate the impact of the Coronavirus pandemic]

The EC has released a document on Best Practices in relation to relief measures offered to consumers and businesses in the context of the COVID-19 crisis. This document sets out concretely how different market participants can support citizens and businesses throughout the crisis, covering several issues, including: i) payment moratoria for consumer and business loans, and for insurance contributions; ii) enabling safer cashless payments while ensuring cash payments remain available for those who need them; iii) ensuring loans aimed at mitigating the impact of coronavirus are provided swiftly, and that the fees and interest rates incurred are fair; and iv) legitimate insurance claims are processed and paid out as quickly as possible.

[(15/07/2020) IASB – IASB defers the effective date of amendments to IAS 1]

The IASB has issued an amendment to defer by one year the effective date of Classification of Liabilities as Current or Non-current, which amends IAS 1 Presentation of Financial Statements. Classification of Liabilities as Current or Non-current was issued in January 2020, effective for annual reporting periods beginning on or after 1 January 2022. However, in response to the COVID-19 pandemic, the Board has deferred the effective date by one year to provide companies with more time to implement any classification changes resulting from those amendments. Classification of Liabilities as Current or Non-current is now effective for annual reporting periods beginning on or after 1 January 2023.

[(15/07/2020) FCA – COVID Temporary guidance updates: Motor finance and high cost credit instrument / High-cost short-term credit / Rent-to-own, buy-now pay-later and pawnbroking agreements]

The FCA has updated some of its temporary guidance for firms which apply during the exceptional circumstances arising out of the COVID-19 pandemic and its impact on the financial situation of the customers. In particular, the temporary guidances that have been updated are related to: motor finance and high cost credit instrument, high-cost short-term credit and rent-to-own, buy-now pay-later and pawnbroking agreements.

[(15/07/2020) Fed – Federal Reserve Board announces extension of rule change to bolster effectiveness of the Small Business Administration's Paycheck Protection Program]

The Federal Reserve (Fed) has announced an extension of a rule change to bolster the effectiveness of the Small Business Administration's (SBA) Paycheck Protection Program (PPP). The extension will temporarily modify the Fed's rules so that certain bank directors and shareholders can apply to their banks for PPP loans for their small businesses. To prevent favoritism, the Fed limits the types and quantity of loans that bank directors, shareholders, officers, and businesses owned by these persons can receive from their affiliated banks.

[(15/07/2020) FSB – FSB sets out action to maintain financial stability during COVID]

The Financial Stability Board (FSB) has published a letter from the FSB Chair, Randal K. Quarles, to G20 Finance Ministers and Central Bank Governors. The FSB also delivered to the G20 a report on the financial stability implications of, and policy measures taken in response to, the COVID-19 pandemic. The Chair's letter sets out a number of areas of focus for the FSB during the COVID Event: i) assessing vulnerabilities during the current crisis; ii) reinforcing resilient non-bank financial intermediation (NBFI); iii) identifying and assessing policy responses; iv) monitoring consistency with standards; and v) using flexibility in standards and buffer use. The report to the G20 details COVID-related financial stability developments, policy measures taken and work to assess their effectiveness.

[(20/07/2020) EIOPA – Supervisory Statement on the Solvency II recognition of schemes based on reinsurance with regard to COVID-19 and credit insurance]

The European Insurance and Occupational Pensions Authority (EIOPA) has published a Supervisory Statement on the Solvency II recognition of schemes based on reinsurance with regard to COVID-19 and credit insurance. The Statement provides EIOPA's view on the exceptional supervisory treatment –for Solvency II purposes– of schemes based on reinsurance implemented by Member States in the extraordinary context of the European Commission 'Temporary Framework for state aid measures to support the economy in the current COVID-19 outbreak' adopted on 19 March 2020.

[(21/07/2020) ESMA – ESMA recommends supervisory coordination on accounting for COVID-19-related rent concessions]

The ESMA has issued a Public Statement recommending coordination of supervisory action with regards to issuers' accounting for COVID-19-related rent concessions. ESMA acknowledges that, due to the COVID-19 pandemic, issuers encounter difficulties in accounting for the large volumes of lease modifications which have been granted in many jurisdictions. In order to address such such difficulties, the International Accounting Standards Board (IASB) issued in May 2020 an amendment to IFRS 16 providing a practical relief for lessees. Provided that the European Parliament and the Council do not object to the endorsement of the IFRS 16 amendment, ESMA recommends that National Competent Authorities (NCAs) do not prioritise supervisory actions on the application of the lease modification requirements contained in IFRS 16 as currently endorsed by the EU to COVID-19-related lease modifications which would fall within the scope of the IFRS 16 amendment.

[(21/07/2020) EBA – Overview of public guarantee schemes issued in response to the Covid-19 pandemic]

The EBA has published a list of the public guarantee schemes issued in response to the COVID-19 pandemic. This publication, which complements the information included in the EBA Report on the implementation of selected COVID-19 policies, aims at providing transparency to the public on the existence of public guarantees, as well as responding to the European Commission's request for a stock-take of such guarantees. This list provides an overview of the 47 public guarantee schemes, of which 43 are from EU Member States and 4 from EEA members, which, to the EBA's knowledge, have been issued in response to the COVID-19 pandemic.

[(27/07/2020) EIOPA – Insurance against pandemic risk: EIOPA identifies options for shared resilience solutions]

The European Insurance and Occupational Pensions Authority (EIOPA) has published its Issues Paper highlighting options for developing shared resilience solutions for pandemic risk. The paper recognises that private insurance solutions alone will not be sufficient to protect society against the financial consequences of future pandemics. Solutions will require both public and private sector involvement, and build on the following four key elements: i) proper risk assessment; ii) risk prevention and adaptation measures; iii) appropriate product design; and iv) risk transfer.

[(28/07/2020) PRA – Statement by the PRA on EBA Guidelines on reporting and disclosure of exposures subject to measures applied in response to the Covid-19 outbreak]

The Prudential Regulation Authority (PRA) has published a statement that provides guidance to all PRA-regulated firms on the EBA Guidelines on Covid-19 disclosures and publishes PRA disclosure templates. The PRA does not consider it necessary to extend the supervisory reporting elements of the Guidelines to UK credit institutions, therefore UK credit institutions are not expected to prepare or transmit to the PRA the reporting templates contained within the Guidelines on Covid-19 reporting and disclosure.

[(28/07/2020) FCA – CP20/13: Consultation on mortgages: Removing barriers to intra-group switching and helping borrowers with maturing interest-only and part-and-part mortgages / Statement on mortgage prisoners / GC20/3: Guidance for firms on the fair treatment of vulnerable customers]

The Financial Conduct Authority (FCA) has released Consultation Paper 20/13 on new rules to help some borrowers in closed mortgage books to have more options. Additionally, it is also consulting on new guidance to help some borrowers with maturing interest-only and part-and part mortgages who are affected by the conditions created by COVID-19. Furthermore, the FCA has also published the Guidance Consultation 20/3 on the fair treatment of vulnerable costumers with the aim to help drive change by providing clarity and focusing firms' attention on what firms should do to comply with FCA Principles.

Other publications of interest

COVID-19

(30/07/2020) EBA – EBA sees first impact of COVID-19 materialising in EU banks' Q1 data

The EBA has published its quarterly Risk Dashboard together with the results of the Risk Assessment Questionnaire (RAQ). The updated data shows that the impact of COVID-19 was mainly reflected in a contraction of banks' capital ratios and profitability, the cost of risk increased, whereas non-performing loans (NPL) ratios remained stable, confirming that the impact of the pandemic on asset quality can be delayed. The EBA also published a thematic note on leveraged finance, which highlights that the expansion of this market segment in recent years has come along with a significant easing of credit standards.

(11/08/2020) EBA – EBA publishes guidance on impact of CRR adjustments in response to the COVID-19 pandemic on supervisory reporting and disclosure / EBA provides clarity on the implementation of the reporting and disclosure framework in the context of COVID-19 measures

The EBA has published a revised version of its Implementing Technical Standards (ITS) on supervisory reporting and two sets of Guidelines on disclosures and supervisory reporting requirements. These products provide clarifications on the application of certain adjustments on institutions' disclosures and supervisory reporting introduced in the CRR in response to the COVID-19. Furthermore, the EBA has also published some frequently asked questions related to the implementation of its Guidelines on reporting and disclosure of exposures subject to measures applied in response to the COVID-19 crisis.

(14/08/2020) EBA – EBA updates its work programme for 2020 in light of the COVID-19 pandemic

The EBA has updated its annual work programme for 2020 to reflect all the changes brought in by the COVID-19 pandemic to its activities. The updated work programme aims to alleviate the burden on banks and to limit to the minimum the interaction with the industry. For this reason, the EBA only launched new consultations which were considered critical, postponed the publication of final technical standards depending on their degree of finalisation and expected time of implementation, and put on hold data collections normally used for ad-hoc analyses.

(07/09/2020) FSB – FSB extends implementation timelines for securities financing transactions

The Financial Stability Board (FSB) announced extensions to the implementation timelines for minimum haircut standards for non-centrally cleared securities financing transactions (SFTs), to ease operational burdens on market participants and authorities, and thereby assist them in focusing on priorities from the impact of COVID-19. As part of its work to enhance the resilience of non-bank financial intermediation, the FSB developed 18 policy recommendations to address financial stability risks that arise from SFTs. Since the implementation of Basilea III has been defer to January 2023 and the framework for numerical haircut floors will be implemented through it, the FSB has therefore decided to also extend the implementation dates by one year for its policy recommendations on this last topic. This is in line with the re-prioritisation of the FSB's work in light of the COVID-19 pandemic and will give market participants more time to prepare for the implementation of this framework.

(18/09/2020) Fed – Federal reserve Board updates frequently asked questions to clarify the Board and Department of Treasury's expectations regarding lender underwriting for the Main Street Lending Program

The Federal has updated its frequently asked questions (FAQs) to clarify the Fed and Department of Treasury's expectations regarding lender underwriting for the Main Street Lending Program. The revised FAQs emphasize that lender underwriting should look back to the borrower's pre-pandemic condition and forward to their post-pandemic prospects. The FAQs also clarify supervisory expectations for lenders originating Main Street loans. The program supports lending to small and medium-sized for-profit businesses and nonprofit organizations that were in sound financial condition before the COVID-19 pandemic but lack access to credit on reasonable terms.

(21/09/2020) EBA – EBA phases out its Guidelines on legislative and non-legislative loan repayments moratoria

The EBA has been closely monitoring the developments of the COVID-19 pandemic and, considering the progress made so far, will phase out its Guidelines on legislative and non-legislative payment moratoria in accordance with its end of September deadline. The regulatory treatment set out in the Guidelines will continue to apply to all payment holidays granted under eligible payment moratoria prior to 30 September 2020, thus avoiding cliff effects risks of having to reclassify existing loans abruptly at a later stage. Banks can continue supporting their customers with extended payment moratoria also after 30 September 2020, such loans should be classified on a case-by-case basis according to the usual prudential framework.

[(22/09/2020) ESAS – EU financial regulators assess risks to the financial sector after the outbreak of covid-19 and call for enhanced cooperation]

The European Supervisory Authorities (ESAs) have issued their first joint risk assessment Report of the financial sector since the outbreak of the COVID-19 pandemic. The Report highlights how the pandemic has led to further amplified profitability concerns across the board and heightened liquidity challenges in segments of the investment fund sector. It particularly points to economic and market uncertainty as a key challenge going forward. In particular, the ESAs highlighted the need to implement the following actions: i) monitor risks and perform stress testing; ii) foster flexibility where and when needed; iii) support to the real economy; iv) preparing of EU financial institutions; v) supervise digital transformation.

[(30/10/2020) Fed/FDIC/OCC – Federal Reserve Board adjusts terms of Main Street Lending Program to better target support to smaller businesses that employ millions of workers and are facing continued revenue shortfalls due to the pandemic]

The Federal Reserve Board (Fed) has adjusted the terms of the Main Street Lending Program in two important ways to better target support to smaller businesses that are facing continued revenue shortfalls due to the pandemic. In particular, the minimum loan size for three Main Street facilities available to for-profit and non-profit borrowers has been reduced from $250,000 to $100,000 and the fees have been adjusted to encourage the provision of these smaller loans.

[(09/11/2020) OCC - OCC Reports Key Risks, Effects of COVID-19 in Federal Banking System]

The Office of the Comptroller of the Currency (OCC) has reported the key issues facing the federal banking system and the effects of the COVID-19 pandemic on the federal banking industry in its report Semiannual Risk Perspective for Fall 2020. Banks remain in strong financial condition but profitability is stressed due to low interest rates and increasing levels of provisions for problem loans. The OCC reported credit, strategic, operational, and compliance risks, among the key risk themes in the report.

[(20/11/2020) Fed/FDIC/OCC - Agencies provide temporary relief to community banking organizations]

The federal bank regulatory agencies announced an interim final rule that provides temporary relief for certain community banking organizations related to certain regulations and reporting requirements as a result, in large part, of their growth in size from the coronavirus response. With regard to the requirements covered by the interim final rule, community banking organizations that have crossed a relevant threshold generally will have until 2022 to either reduce their size, or to prepare for new regulatory and reporting standards.

[(23/11/2020) IOSCO - IOSCO Annual Meeting addresses the impact of COVID 19 and other critical matters on securities markets]

Members of the International Organization of Securities Commissions (IOSCO) gathered for the organization´s 45th Annual Meeting to discuss about: i) the relevance of sustainability-related disclosures; ii) the next steps in the Financial Stability Engagement Group´s (FSEG) work on the impact of the turmoil on market- based financial intermediation (NBFI), specifically on money market funds (MMFs), open-ended investment funds, bond liquidity and margins. The IOSCO agreed to undertake further work on: i) good practices or recommendations for audit committees on goodwill impairment; ii) potential valuation-related issues in financial reporting, auditing and disclosures; and iii) the impact of COVID-19 on secondary trading market microstructure mechanisms, the operations of trading venues and business continuity planning

[(30/11/2020) Fed - Federal Reserve Board announces extension through March 31, 2021, for several of its lending facilities that were generally scheduled to expire on or around December 31]

The Federal Reserve (Fed) has announced an extension through 31 March 2021, for several of its lending facilities that were generally scheduled to expire on or around December 31. By backstopping critical short-term funding markets, these facilities are supporting market functioning and enhancing the flow of credit to the economy. The extension, which has also been approved by the Treasury Department, will facilitate planning by potential facility participants and provide certainty that the facilities will continue to be available through the first quarter of 2021 to help the economy recover from the COVID-19 pandemic.

Other publications of interest

COVID-19

(03/12/2020) EC - Coronavirus: Commission presents "Staying safe from COVID-19 during winter" strategy

The EC has adopted a strategy for sustainably managing the pandemic over the coming winter months, a period that can bring a risk of increased transmission of the virus owing to specific circumstances such as indoor gatherings. The strategy to keep the pandemic COVID-19 under control until vaccines are widely available recommends the following measures: i) Physical distancing and limiting social contacts; ii) testing and contact tracing; iv) safe travel; v) healthcare capacity and personnel; vi) pandemic fatigue and mental health; and vii) national vaccination strategies.

(07/12/2020) PRA – Decision on Systemic Risk Buffer Rates

The PRA has decided, with the support of the Financial Policy Committee (FPC), to extend in response to the ongoing economic shock from COVID-19, the decision to maintain firms' Systemic Risk Buffer (SRB) rates at the rate set in December 2019 for a further year. The PRA also reiterate its expectation that all elements of banks' capital and liquidity buffers can be drawn down as necessary to support the economy through this shock.

(10/12/2020) ECB - ECB extends pandemic emergency longer-term refinancing operations / ECB prolongs support via targeted lending operations for banks that lend to the real economy

The Governing Council of the European Central Bank (ECB) has decided to offer four additional pandemic emergency longer-term refinancing operations (PELTROs) on a quarterly basis during 2021. Each operation will have a tenor of approximately one year. These operations will serve as a liquidity backstop to the euro area banking system and contribute to preserving the smooth functioning of money markets during the extended pandemic period. Furthermore, the Governing Council of the ECB has also decided on modifications to the terms and conditions of the third series of targeted longer-term refinancing operations (TLTRO III).

(10/12/2020) PRA - PRA statement on capital distributions by large UK banks

The Prudential Regulation Authority (PRA) judges that an extension of the decision to suspend dividends and buybacks on ordinary shares is not necessary and that there is scope for banks to recommence some distributions. With the removal of the PRA's request not to make shareholder distributions, it is for bank boards to determine the appropriate level of distributions.

(15/12/2020) EBA/ECB - The EBA continues to call on banks to apply a conservative approach on dividends and other distributions in light of the COVID-19 pandemic/ ECB asks banks to refrain from or limit dividends until September 2021

The EBA has urged banks to refrain from distributing capital outside the banking system when deciding on dividends and other distribution policies, including share buybacks, unless extreme caution is applied, given that the COVID-19 crisis and the uncertainty on its impact on the economy are likely to continue, with possible further deterioration of asset quality metrics over the next quarters. Also the European Central Bank (ECB) has recommended that banks exercise extreme prudence on dividends and share buy-backs. To this end, the ECB asked all banks to consider not distributing any cash dividends or conducting share buy-backs, or to limit such distributions, until 30 September 2021.

(16/12/2020) EC – Coronavirus response: Tackling non-performing loans (NPLs) to enable banks to support EU households and businesses/ EBA welcomes European Commission's action plan to tackle NPLs in the aftermath of the COVID-19 pandemic

The EC has presented a strategy to prevent a future build-up of non-performing loans (NPLs) across the European Union, as a result of the coronavirus crisis. The strategy aims to ensure that EU households and businesses continue to have access to the funding they need throughout the crisis. This strategy has four main goals: i) develop secondary markets for distressed assets; ii) reform the EU's corporate insolvency and debt recovery legislation; iii) support the establishment and cooperation of national asset management companies (AMCs) and iv) implement precautionary public support measures The action plan requests the EBA's support to improve data quality and comparability, enhance transparency and market discipline under Pillar 3 rules, and address regulatory impediments to NPL purchases.

European Green Deal

(14/01/2020) EC – Investing in a Climate-Neutral and Circular Economy

The EC has published the European Green Deal Action Plan for 2020 which outlines the financing and objectives of the European Green Deal. The main objective of the European Green Deal is to turn Europe into the first continent to achieve climate neutrality by 2050, through public and private investment sectors. To this end, the guaranteed budget for the next 10 years is at least one trillion euros from the EU budgets and investments from the European Investment Banking Group (EIBG) and the private sector to boost green investments and mitigate climate change.

Climate risk

(27/02/2020) IAIS – Issues Paper on the Implementation of the TCFD Recommendations

The International Association of Insurances Supervisors (IAIS) has published a Issues Paper on the Implementation of the Recommendations of the Task Force on Climate-related Financial Disclosures (TFCD). The goal is to establishing a framework for climate-related disclosures for the insurance sector that is directly and indirectly affected by the climate risk. In order to achieve it, this paper provides a set of practices that can be implemented with limited direct regulatory intervention considering the diversity of supervisory frameworks across jurisdictions. In addition, the paper sets out a range of options for supervisory approaches, based on case studies describing supervisory practices in twelve jurisdictions.

Sustainability

(27/02/2020) BoE – COP 26 Private Finance Agenda

The Bank of England (BoE) has published the COP 26 Private Finance Agenda with the objective of helping private finance support the whole economy transition to net zero. In particular, this Agenda aims to make climate change a relevant factor in every financial decision, so that each company, bank, insurer and investor will need to adjust their business models for a low carbon world, achieving net zero.

Climate Change

(14/04/2020) IOSCO – Report on Sustainable Finance and the Role of Securities Regulators

The International Organization of Securities Commissions (IOSCO) has published its Report on Sustainable Finance and the Role of Securities Regulators and IOSCO, which seeks to help market participants address issues related to sustainability and climate change. The Report highlights three recurring themes that involve multiple and diverse sustainability frameworks and standards, including sustainability-related disclosure, a lack of common definitions of sustainable activities, and greenwashing and other challenges to investor protection.

Green Investments

(28/05/2020) EIB – Just Transition Mechanism: the EIB and the European Commission join forces in a proposed new public loan facility to finance green investments in the EU

The European Commission (EC) has presented its proposal for a public sector loan facility under the Just Transition Mechanism. The facility will be implemented with the involvement of the European Investment Bank (EIB) and will encourage investments that support the transition towards a climate-neutral economy by public sector authorities to the benefit of coal- and carbon-intensive regions. The facility will include €1.5 billion in grants from the EU budget and up to €10 billion in loans from the EIB's own sources. The facility will mobilise up to between €25 and €30 billion of investments for helping territories and regions most affected by the transition to a climate-neutral economy, prioritising those that have less capacity to deal with the costs of the transition.

Climate risks

(18/06/2020) BoE – The Bank of England's climate-related financial disclosure 2020

The BoE has published the first report setting out its approach to managing the risks from climate change across operations, including the steps BoE has taken to improve the understanding of these risks in future years. This report covers BoE's approach to i) climate-related risk disclosure; ii) governance structures and processes used to manage climate-related financial risk; iii) setting climate strategy and managing its implementation; iv) climate-related financial risk management, including targets and the metrics tracked by the BoE.

Other publications of interest

Climate change

Climate Risks

(29/06/2020) CFRF – The Climate Financial Risk Forum publishes its guide to help the financial industry address climate-related financial risks

The Climate Financial Risk Forum (CFRF) has published their guide to climate-related financial risk management. The guide aims to help financial firms understand the risks and opportunities that arise from climate change, and provides support for how to integrate them into their risk, strategy and decision-making processes. As part of this, the guide considers how firms can plan for the impact of climate policies over different time horizons and assess their exposure to climate-related financial risks so that they can adapt their businesses in response. The guide contains 4 industry-produced chapters: i) disclosures; ii) innovation; iii) scenario analysis; and iv) risk management.

Green finance

(16/07/2020) EBA/ESMA/EIOPA – EBA supports EU Commission's actions towards a more sustainable European economy / ESMA responds to EC consultation on renewed sustainable finance strategy / EIOPA responds to the European Commission's consultation on a renewed sustainable finance strategy

The European Banking Authority (EBA), ESMA and European Insurance and Occupational Pensions Authority (EIOPA) have published their response to the European Commission's (EC) consultation on a Renewed Sustainable Finance Strategy. In particular, the ESMA's response covers a broad range of topics from strengthening the foundations for sustainable finance, increasing opportunities for citizens, financial institutions and corporates to have a positive impact on sustainability, to managing and reducing risks relating to environmental, social and governance (ESG) factors.

Climate risks and financial stability

(22/07/2020) FSB – Climate risks and financial stability

The Financial Stability Board (FSB) has published a stocktake of financial authorities' experience in including climate-related risks in financial stability monitoring. It draws on information provided by FSB member national authorities, international bodies and a workshop with the private sector. The stocktake finds that financial authorities vary in terms of whether they consider climate-related risks as part of their financial stability monitoring. Around three-quarters of survey respondents consider, or are planning to consider, climate-related risks as part of their financial stability monitoring. Most focus on the implications of changes in asset prices and credit quality. A minority of authorities also consider the implications for underwriting, legal, liability and operational risks.

ESG

(17/09/2020) EBA – EBA seeks input from institutions on their ESG disclosure practices

The European Banking Authority (EBA) has published an online survey to receive input from credit institutions on their practices and views in the area of disclosure of information on environmental social governance (ESG) risks. The survey, which is addressed to large credit institutions, aims to support the EBA's policy work on Pillar 3 disclosure and its wider efforts to develop a robust policy framework in the area of sustainable finance. This online survey is part of the EBA's work to develop draft implementing technical standards (ITS) on Pillar 3 disclosure of prudential information on ESG risks by institutions. It will also be used to monitor the short-term expectations specified in the EBA Action Plan on Sustainable Finance.

Climate plans

(17/09/2020) EC – National Energy and Climate Plans: Member State contributions to the EU's 2030 climate ambition / EU Climate Target Plan 2030: Building a modern, sustainable and resilient Europe / EU Climate Target Plan 2030: Key contributors and policy Tools

The European Commision (EC) has published a proposal for new objectives of greenhouse gas emissions (reach a reduction of 55% in 2030) and energy efficiency (reach a level between 38% and 40%) for the National Energy and climate Plans (NECPs, which set out how Member States will contribute to the EU-wide climate and energy targets to 2030). With regards to the objective of reducing the greenhouse gas emissions, the EC acknowledges that it will be required actions across all key sectors. In order to achieve this goal, the EC has identified the areas where and actualisation of the policies is needed: EU Emissions Trading System (ETS); energy efficiency; renewable energy; road transport CO2 emissions; agriculture, land use, land use change and forestry (LULUCF); and effort sharing across Member States. The EC will present legislative proposals by June 2021 focusing on these topics.

Other publications of interest

Climate change

Sustainable Investment

[(21/09/2020) ESAS – ESAS launch survey on environmental and/or social financial product templates]

The ESAs have published a survey seeking public feedback on presentational aspects of product templates. The ESAs propose to standardise the disclosure of information for financial products that promote environmental and/or social characteristics or have a sustainable objective. The use of such mandatory templates will improve comparability of different financial products in different EU Member States and are intended to be included in existing disclosures provided by Alternative investment fund managers (AIFMs), Undertakings for Collective Investment in Transferable Securities (UCITSs), insurance undertakings, Institutions for Occupational Retirement Provision (IORPs) or providers of pan-European Personal Pensions Products (PEPPs).

[(22/09/2020) ECB – ECB to accept sustainability-linked bonds as collateral]

The ECB has decided that bonds with coupon structures linked to certain sustainability performance targets will become eligible as collateral for Eurosystem credit operations and also for Eurosystem outright purchases for monetary policy purposes, provided they comply with all other eligibility criteria. The coupons must be linked to a performance target referring to one or more of the environmental objectives set out in the EU Taxonomy Regulation and/or to one or more of the United Nations Sustainable Development Goals relating to climate change or environmental degradation. The decision aligns the treatment of marketable and non-marketable collateral assets with such coupon structures.

Climate risks

[(12/10/2020) IAIS – Public Consultation: Draft Application Paper on the Supervision of Climate-related Risks in the Insurance Sector]

The International Association of Insurance Supervisors (IAIS) has released a Draft Application Paper on the Supervision of Climate-related Risks in the Insurance Sector to support supervisors in their efforts to integrate climate-related risks into supervisory frameworks. The draft Application Paper provides background and guidance on how the IAIS supervisory material can be used to manage the challenges and opportunities arising from climate-related risks. Application Papers do not establish standards or expectations, but instead provide additional guidance to assist implementation and provide examples of good practice.

Climate neutrality

[(21/10/2020) Council of the EU – Just transition towards climate neutrality - Council agrees its position on new public sector loan facility]

Member states' EU ambassadors have agreed the Council's of the EU position on a new public sector loan facility to be created under the Just Transition Mechanism to support public sector investment in the regions that are most affected in the transition towards a climate neutral economy due to their carbon-intensive economies and lesser capacity to deal with the challenges of the transition. In its position, the Council suggests some limited changes to the Commission's proposal presented in May. Most notably, the Council specifies that the facility should not support activities excluded from the scope of support under the Just Transition Fund. The Council's position agreed will guide the presidency in negotiations with the European Parliament (EP).

Sustainable Finance

[(05/11/2020) ESMA – ESMA specifies obligations on environmentally sustainable activities]

The ESMA has published its CP containing ESMA's draft advice to the European Commission on Article 8 of the Taxonomy Regulation. This specifies the content, methodology and presentation of the key performance indicators (KPIs) that non-financial undertakings and asset managers are required to disclose. The key draft proposals for consultation address the following aspects: i) on non-financial undertakings, the advice covers the content of the three KPIs, namely the proportion of turnover, and the capital and operating expenditure related to environmentally sustainable activities; and ii) on asset managers, the advice proposes a KPI calculation model based on eligible investments.

Other publications of interest

Climate change

Climate change Risks

[(15/12/2020) EIOPA - Sensitivity analysis of climate-change related transition risks]

The European Insurance and Occupational Pensions Authority (EIOPA) has released a report on the Sensitivity analysis of climate-change related transition risks. The report explores current holdings of corporate bonds and equity that can be related to key climate-policy relevant sectors such as fossil fuel extraction, carbon-intensive industries, vehicle production and the power sector. It also quantifies potential climate-change related transition risks and presents insights into possible impacts on these investments as economies transition away from fossil fuel-dependent energy production and carbon-intensive production.

CIBERSECURITY

[(16/01/2020) FDIC/OCC – Heightened Cybersecurity Risk Considerations]

The Federal Deposit Insurance Corporation (FDIC) and the Office of the Comptroller of the Currency (OCC) have published a joint statement about the heightened cybersecurity risk that the financial services industry and other critical business sectors are facing. Considerations focus on risk management principles that can reduce the risk of a cyber-attack and minimize business disruptions such as response and resilience capabilities, authentication and system configuration.

PSD2

(22/01/2020) EBA – Guidelines (GL) amending EBA GL on fraud reporting under the PSD2

The EBA has published a set of GL that establish minor consequential amendments to the GL addressed to payment service providers (PSPs) and competent authorities setting out requirements on how fraud data should be reported under the PSD2. In particular, these clarifications are made regarding the application of requirements on strong customer authentication under PSD2 to card-based payments initiated by the payee and to card-based payments where the payer's PSP or the payee's PSP is located outside the European Union.

FINANCIAL INFORMATION

(31/01/2020) SEC – Management's Discussion and Analysis, Selected Financial Data, and Supplementary Financial Information

The Securities and Exchange Commission (SEC) has published the Management's Discussion and Analysis, Selected Financial Data, and Supplementary Financial Information which goal is to propose an amendment to modernize, simplify and enhance certain financial disclosure requirements in Regulation S-K. This discussion highlights especially the description of the proposed amendments and the economic analysis of the elimination of duplicative disclosures to modernize and enhance MD&A disclosures for the benefit of investors. In addition, comments may be submitted to this document by stakeholders in the following 60 days after its publication.

SUPTECH

(11/02/2020) EIOPA – Supervisory technology strategy

The European Insurance and Occupational Pensions Authority (EIOPA) has published its supervisory technology (SupTech) strategy with the aim of delivering innovative and efficient supervisory solutions that will support a more effective, flexible and responsive supervisory system. The strategy covers both prudential and conduct of business supervision, policy and interaction with entities, for insurance and occupational pensions sectors. Furthermore, the strategy will focus on improving data collection, data analytics and cooperation among NCAs and EIOPA.

E-COMMERCE

(18/02/2020) Council of the EU – Requirements for payment service providers / VAT cooperation amendments

The Council of EU has adopted new rules for exchange of VAT payment data with the aim of facilitating the detection of text fraud in cross-border e-commerce transactions and also allowing Member States (MS) to collect, in a harmonised way, the records of the payment service providers. These new rules consists of two legislative texts, one amending the VAT directive putting in place requirements on payment service providers to keep records of cross-border payments related to e-commerce, and the other one amending the regulation on administrative cooperation in the area of VAT. In this way, the texts complement the VAT regulatory framework for e-commerce coming into force in January 2021 which introduced new VAT obligations for online marketplaces and simplified VAT compliance rules for online businesses.

FINTECH ISSUES

(25/02/2020) BIS – IFC Report on central banks and FinTech data issues

The Bank for International Settlements (BIS) has published a Report made by the Irving Fisher Committee (IFC) on central banks and FinTech data issues with the objective of shedding light on a set of issues that FinTech give rise on central banks. In particular, the main findings of this Report are: i) Fintech is developing in the majority of jurisdictions, through different channels; ii) there is a significant need for FinTech data among central bank users; iii) FinTech creates important data gaps; iv) to close these gaps, it is key that FinTech entities be adequately covered in the statistical reporting perimeter; v) official business classification systems should be revisited; vi) half of the central banks have launched initiatives to close data gaps, and vii) there is a demand for stronger international coordination.

Other publications of interest

Digitalization

Cryptocurrencies

(12/03/2020) BoE – Central Bank Digital Currency: opportunities, challenges and design

The Bank of England (BoE) has published a discussion paper (DP) on Central Bank Digital Currency (CBDC), in order to discuss whether to introduce this CBDC or not. In particular, this CBDC would be an electronic form of central bank money that could be used by households and businesses to make payments. This CBDC presents new opportunities for the way that the BoE achieves its objectives of maintaining monetary and financial stability. The document is mainly focused on the design of the CBDC and the technology that it should use.

Big data

(17/03/2020) IAIS – Issues Paper on the Use of Big Data Analytics in Insurance

The International Association of Insurance Supervisors (IAIS) has published an Issues Paper on the Use of Big Data Analytics in Insurance. In particular, the key messages of this paper are: i) Insurance is a business driven by data, so implementing big data technologies could create great opportunities for the sector; ii) the growing use of complex algorithms and rapidly expanding ability of insurers to access more data could create or amplify specific risks, and iii) insurance supervisors can support innovation while maintaining their focus on protecting policyholders by ensuring that any technology deployment and use of data is done in a prudent, fair and responsible manner across the insurance value chain.

Financial inclusion

(14/04/2020) BIS – Report on payment aspects of financial inclusion in the fintech era

The Bank for International Settlements (BIS) has published the Report on payment aspect of financial inclusion in the fincacial era. The aim of this report is to reiterates and enhances the guidance developed in the report on Payment aspects of financial inclusion (PAFI) issued by the Committee on Payments and Market Infrastructures and the World Bank Group in 2016. Since then, the PAFI framework has been adopted as the analytical underpinning for designing and implementing country-level actions and global efforts to improve access to and usage of transaction accounts. The report sets out fintech-focused key actions, and places them in the context of the overall PAFI guidance, which was formulated in a technology-neutral and holistic way, and continues to be relevant in the era of fintech.

Cloud computing

(30/04/2020) FFIEC – Joint Statement on Risk Management for Cloud Computing Services

The Federal Financial Institutions Examination Council (FFIEC) has issued a joint statement to address the use of cloud computing services and security risk management principles in the financial services sector. In particular, the main aspects covered by this joint statement are that: i) inherent in the use of cloud computing services are shared responsibilities between the provider and the client, so this joint statement identifies responsibilities financial institutions would have when contracting with cloud computing providers; ii) it provides examples of risk management practices for a financial institution's safe and sound use of cloud computing services and safeguards to protect its customers' sensitive information from risks that pose potential consumer harm, and iii) it also includes a list of public and private sector resources and references that can assist financial institutions with managing cloud computing services.

Stablecoin

(05/05/2020) ECB – A regulatory and financial stability perspective on global stablecoin

The ECB has published a Macroprudential Bulletin on global stablecoin with the aim of assessing the regulatory and financial stability implications of a global stablecoin. A stablecoins with the potential for global reach, like Libra, could help to address unmet consumer demand for payment services that are fast, cheap and easy to use and can operate across borders. However, while there is indeed the potential for such benefits, global stablecoins also pose challenges and risks.

European Single Electronic Format

(18/06/2020) ESMA – ESMA integrates the 2020 IFRS taxonomy into ESEF RTS

The European Securities and Markets Authority (ESMA) has published a draft amendment to the Regulatory Technical Standards (RTS) on the European Single Electronic Format (ESEF). This update provides a purely technical amendment to the original RTS on the ESEF, incorporating the 2020 version of the IFRS taxonomy published by the IFRS Foundation in March 2020. The 2020 taxonomy will be mandatory for annual financial reports containing financial statements for financial years beginning on or after 1 January 2021. However, issuers will be allowed to adopt it already for 2020 reports on a voluntary basis.

Digital Finance Strategy For Europe

(29/06/2020) ESAs – The EBA supports the Commission's proposal for a new Digital Finance Strategy for Europe / ESMA responds to European Commission consultation on the Digital Finance Strategy / EIOPA responds to the European Commission's Digital Finance Strategy consultation

The ESAs have responded to the European Commission's consultation on a new Digital Finance Strategy for Europe. The three agencies are generally supportive with the proposal, but they have pointed out several improvements to be included in the final regulation. In particular, the EBA identifies in its response a wide range of possible EU-level actions to support the scaling of innovative technology cross-border whilst ensuring high standards of consumer protection and financial sector resilience.

RegTech

(12/08/2020) EBA – EBA consults on the use of RegTech solutions and ways to support the uptake of RegTech across the EU

The EBA has launched a RegTech industry survey to invite all relevant stakeholders, such as financial institutions and information and communications technology (ICT) third party providers, to share their views and experience on the use of RegTech solutions. RegTech means any range of applications of technology-enabled innovation for regulatory, compliance and reporting requirements implemented by a regulated institution. The aim of the survey is to better understand the ongoing activity in this area, raise awareness on RegTech within the regulatory and supervisory community, and inform any relevant future policy discussion. The EBA is also seeking ways to facilitate the adoption and scale up of RegTech solutions across the EU whilst acknowledging and looking to address the underlying risks.

Artificial Intelligence

(01/10/2020) EP– Making Artificial Intelligence ethical, safe and innovative

Members of the European Parliament (MEPs) have approved proposals to address long-term opportunities and legal challenges posed by artificial intelligence (AI) in the area of ethics, civil liability and intellectual property. These proposal regard to the three different reports adopted by The Legal Affairs Committee on specific issues linked to the increased development and use of artificial intelligence systems. The Commission is expected to put forward a legislative proposal on the matter in early 2021. It is requested: i) to present a new legal framework outlining the ethical principles for AI; ii) a future-oriented civil liability framework to be adapted, making those operating high-risk AI strictly liable if there is damage caused iii) an impact assessment on the matter of intellectual property rights (IPRs).That is because the key issue of protecting in the context of artificial intelligence has so far not been addressed by the EU Commission.

Digital Euro

(02/102020) ECB – ECB intensifies its work on a digital euro

The European Central Bank (ECB) has published a comprehensive report on the possible issuance of a digital euro, prepared by the Eurosystem High-Level Task Force on central bank digital currency (CBDC) and approved by the Governing Council. A digital euro would be an electronic form of central bank money accessible to all citizens and firms – like banknotes, but in a digital form – to make their daily payments in a fast, easy and secure way. The Eurosystem task force, bringing together experts from the ECB and 19 national central banks of the euro area, identified possible scenarios that would require the issuance of a digital euro as for example, an increased demand for electronic payments in the euro area that would require a European risk-free digital means of payment or a significant decline in the use of cash as a means of payment. Finally, a digital euro would complement cash, not replace it. The Eurosystem will continue to issue cash in any case. Also, it would preserve the public good that the euro provides to citizens: free access to a simple, universally accepted, risk-free and trusted means of payment.

Cripto-Assets

(13/10/2020) FSB – FSB publishes high-level recommendations for regulation, supervision and oversight of "global stablecoin" arrangements

The Financial Stability Board (FSB) has published the final version of its high-level recommendations for the regulation, supervision and oversight of global stablecoin (GSC) arrangements following an earlier public consultation. The so-called stablecoins are a specific category of crypto-assets which have the potential to enhance the efficiency of the provision of financial services, but may also generate risks to financial stability, particularly if they are adopted at a significant scale. The report states that GSC arrangements are expected to adhere to all applicable regulatory standards and to address risks to financial stability before commencing operation, and to adapt to new regulatory requirements as necessary. The FSB has agreed on 10 high-level recommendations that promote coordinated, effective and proportionate to risk regulation, supervision and oversight of GSC both at the domestic and international level.

Other publications of interest

Digitalization

PSD2

(14/10/2020) EBA – EBA consults on the revision of the Guidelines on major incident reporting under PSD2

The EBA has launched a public consultation to propose revising the Guidelines on major incident reporting under the Payment Service Directive (PSD2). The proposal aims at optimising and simplifying the reporting process, capturing additional relevant security incidents, reducing the number of operational incidents that will be reported, and improving the meaningfulness of the incident reports received. The revision of the Guidelines also intends to decrease the reporting burden on payment service providers (PSPs).

Cybersecurity

(19/10/2020) FSB – FSB encourages use of cyber incident response and recovery toolkit

The Financial Stability Board (FSB) has published a toolkit of practices for financial institutions' cyber incident response and recovery. The FSB encourages authorities and organisations to use the toolkit to enhance their cyber incident response and recovery activities. A significant cyber incident, if not properly contained, could seriously disrupt the financial system, including critical financial infrastructure, leading to broader financial stability implications. The toolkit includes 49 practices for effective cyber incident response and recovery across seven components: i) governance; ii) planning and preparation, iii) analysis; iv) mitigation; v) restoration and recovery; vi) coordination and communication; and vii) improvement.

AI Regulation

(21/10/2020) EP– Parliament leads the way on first set of EU rules for Artificial Intelligence / AI rules: what the European Parliament wants

The EP has adopted three proposals outlining how the EU can best regulate Artificial Intelligence (AI) while boosting innovation, ethical standards and trust in technology. The first proposal urges the EC to present a new legal framework outlining the ethical principles and legal obligations to be followed when developing, deploying and using artificial intelligence, robotics and related technologies in the EU. The second proposal calls for a future-oriented civil liability framework, making those operating high-risk AI strictly liable for any resulting damage. Finally, the last proposal makes clear that EU global leadership in AI requires an effective intellectual property rights system (IPR).

Financial Sandbox

(12/12/2020) MITECO - El Ministerio de Asuntos Económicos y Transformación Digital publica la primera convocatoria para acceder al Sandbox financiero

The Ministry of Economic Affairs and Digital Transformation, through the General Secretariat of the Treasury and International Financing, has made public the first call for applications for access to the controlled test space provided for in Law 7/2020, of 13 November, for the digital transformation of the financial system. These calls will be made periodically every six months. The controlled test space, sandbox, will enable technological innovation projects to be implemented in the financial system with full compliance with the legal and supervisory framework. It will also enable technological innovation projects to be approved, under the control of financial supervisors, guaranteeing maximum protection for users of financial services.

Outsourcing

(18/12/2020) ESMA – ESMA publishes cloud outsourcing guidelines

The European Securities and Markets Authority (ESMA), the EU's securities markets authority, has published the final report on its guidelines on outsourcing to cloud service providers (CSPs). The Guidelines are intended to help firms identify, address and monitor the risks arising from cloud outsourcing arrangements. They provide guidance on: i) The risk assessment and due diligence that they should undertake on their CSPs; ii) The governance, organisational and control frameworks that they should put in place to monitor the performance of their CSPs and how to exit their cloud outsourcing arrangements without undue disruption to their business; iii) The contractual elements that their cloud outsourcing agreement should include; and iv) The information to be notified to competent authorities.

Other publications of interest

Work Programmes

ESMA's Key Priorities

(09/01/2020) ESMA – Key priorities 2020-22

The European Securities and Markets Authority (ESMA) has published its key priorities for 2020-22, which mainly covers its Strategic Orientation for that period. In particular, this Strategic Orientation sets out ESMA's future focus and objectives and reflects its expanded responsibilities and powers following the European Supervisory Authorities (ESAs) Review, and European Market Infrastructure Regulation (EMIR) 2.2, which increases its focus on supervisory convergence, strengthens its role in building the Capital Markets Union (CMU) and gives it with more direct supervision responsibilities.

EC Action Plan 2020

(14/01/2020) EC – Action plan for a strong social Europe in 2020

The European Commission (EC) has published the 2020 Action Plan showing the different initiatives for 2020 that the EC will promote in order to strengthen the EU socially. In the calendar of initiatives it should be highlighted the following (i) in the first quarter, initiatives such as the European Green Deal and the Industrial Strategy Plan; (ii) for the second quarter, the update of the Digital Education Action Plan will be published; (iii) in the third quarter, the Platform Work Summit will be held and (iv) for the last quarter of 2020, the Digital Services Act and the Green Paper on Ageing will be published.

2020 EC Work programme

(29/01/2020) EC – 2020 Work Programme: An ambitious roadmap for a Union that strives for more / Annex I / Annex II / Annex III / Annex IV / Annex V

The European Commission (EC) has pulished its 2020 Work Programme with the aim of setting out the actions the Commission will take to turn the Political Guidelines of the EC President into tangible benefits for European citizens, businesses and society, emphasizing the ecological and digital transitions.

IOSCO Work programme

(31/01/2020) IOSCO – Work Program for 2020

The International Organization of Securities Commissions (IOSCO) has published its Work Program for 2020 which provides an update on the initiatives that IOSCO is undertaking in relation to the existing priority issues. These priorities issues are: cryptoassets, artificial intelligence and machine learning, passive investing and index providers, retail distribution and digitalization and market fragmentation. In addition to these, a new priority issue is found, namely the rising levels of corporate debt and the potential resulting risks in capital markets. This WP also provides an overview of the work that IOSCO will be initiating with regard to the new priority.

2021 EU Budget

(18/02/2020) Council of the EU – Guidelines on 2021 EU budget

The Council of the EU has published the Guidelines on 2021 EU budget with the goal of setting its priorities for the 2021 EU budget. The Guidelines contents a number of conclusions that will be forwarded to the European Parliament and the Commission, as well as to the other institutions. Among these conclusions highlight that the budgetary procedure for 2021 will be the first in the new programming period 2021-2027 and will play an important role in the development and delivery of the Union's objectives and priorities.

Recovery plan

(27/05/2020) EC – Proposal for the 2021-2027 EU long-term budget / Recovery plan for Europe / 2020 Work Programme

The European Commission (EC) has published its proposal for a major recovery from the crisis provoked by the pandemic along with a new recovery instrument embedded within a powerful, modern and revamped long-term EU budget of €750 billion, that will ensure that the recovery is sustainable, even, inclusive and fair for all Member States. Furthermore, the EC has published the adjusted Work Programme for 2020, which will prioritise the actions needed to propel Europe's recovery and resilience.

Other publications of interest

Work Programmes

EBA'S ACTIVITIES

(11/06/2020) EBA – EBA publishes its 2019 Annual Report

The EBA published today its 2019 Annual Report, which provides a detailed account of all the work the Authority achieved in the past year and anticipates the key areas of focus in the coming year. EBA's priorities for 2020 will be: i) supporting the deployment of the risk reduction package and the implementation of global standards in the EU; ii) providing efficient methodologies and tools for supervisory convergence and stress testing; iii) moving towards an integrated EU data hub and a streamlined reporting framework; iv) making AML a real priority for the EU; v) contributing to the sound development of financial innovation and sustainability; vi) promoting an operational framework for resolution; and vii) ensuring effective cooperation with third countries.

REGULATORY INITIATIVES

(21/09/2020) FSRIF – Regulatory Initiatives Grid - September 2020

The Financial Services Regulatory Initiatives Forum has published the new edition of the initiaves Grid, which contains 111 initiatives. Before the end of the year, the UK will transpose CRD V and BRRD II and a number of related initiatives, such as the completion of 'onshoring', will conclude. The UK will then implement changes to the prudential regime for credit institutions, which will give effect to a number of Basel 3 standards. A review of Solvency II will also be conducted. The Grid also includes several long-running, and critically important, initiatives.

CAPITAL MARKETS UNION

(24/09/2020) EC – Capital Markets Union: Commission to boost Europe's capital markets

The EC has published a new and ambitious Action Plan to boost the EU's Capital Markets Union (CMU) over the coming years. The EU's top priority today is to ensure that Europe recovers from the unprecedented economic crisis caused by coronavirus. This Action Plan has three key objectives: i) ensuring that the EU's economic recovery is green, digital, inclusive and resilient by making financing more accessible for European companies, in particular SMEs; ii) making the EU an even safer place for individuals to save and invest long-term; and iii) integrating national capital markets into a genuine EU-wide single market for capital.

Risk dashboard

[(08/01/2020) EBA – Risk Dashboard – Q3 2019]

The European Banking Authority (EBA) has published the Risk Dashboard of the Q3 2019 with the objective to assess and summarize the main risks and vulnerabilities in the banking sector in the EU by evaluating the evolution of Risk Indicators (RI) among a sample of banks across the EU. In particular, this risk dashboard informs about the following: i) EU banks' capital ratios have remained stable for the third quarter in a row; ii) the improvement of asset quality has continued, but at slower pace; iii) RoE has contracted; and iv) on the liability side, banks mainly intend to attain more bail in-able instruments as well as retail deposits.

MCRCS

[(13/01/2020) EIOPA – Instructions for Market and Credit Risk Comparative Study YE2019]

The European Insurance and Occupational Pension Authority (EIOPA) has published the instructions and technical specifications for the Market and Credit Risk Comparative Study (MCRCS) year-end 2019 edition. The MCRCS is an annual Europe-wide comparative study on the modelling of market and credit risk. Its main objective is to compare risk charges for a selection of asset portfolios to be used as a tool for the supervisory review of internal models. Additionally, the study highlights the causes of potential differences between internal models by analysing risk charges for individual asset classes such as fixed income or equity. In this edition, the study will include a specific focus on interest rate risk modelling.

Financial intermediation

[(19/01/2020) FSB – Global Monitoring Report on Non-Bank Financial Intermediation 2019]

The Financial Stability Board (FSB) has published its Global Monitoring Report on Non-Bank Financial Intermediation (NBFI) of 2019 which presents the results of the FSB's annual monitoring exercise to assess global trends and risks from NBFI. In particular, this Report is divided in five sections: i) FSB's monitoring approach, including the scope, data, and terminology; ii) overview of the size and growth of all sectors in the financial system; iii) interconnection among financial entities, both within and across borders; iv) bank-like financial stability risks, and v) case studies that discuss different aspects of NBFI.

LSI

[(30/01/2020) ECB – Risk report on less significant institutions]

The European Central Bank (ECB) has published a risk report on less significant institutions (LSIs) with the objective of assessing the conditions in the LSI sector, through combining a comprehensive quantitative analysis of the current LSI risk profile with forward-looking considerations of the main risks and vulnerabilities facing LSIs. In particular, the following aspects about LSIs are highlighted: i) poor profitability remains a major vulnerability for LSIs; ii) the stability of net interest income conceals shrinking lending margins on the back of relatively strong credit growth; iii) LSIs are gradually moving into digitalisation; iv) LSIs have continued to expand their loan portfolios; v) LSIs have considerable liquidity due to holding a large amount of deposits; among others.

MiFID II

[(31/01/2020) ESMA – MiFID II: Data for the systematic internaliser calculations for equity, equity-like instruments and bonds]

The European Securities and Markets Authorities (ESMA) has published the total number of trades and total volume over the period July-December 2019 for the systematic internaliser calculations for equity, equity-like instruments and bonds. In particular, the results are published only for instruments for which trading venues submitted data for at least 95% of all trading days over the 6-month observation period. The data publications also incorporate OTC trading to the extent it has been reported to ESMA.

ECB Economic Bulletin

[(06/02/2020) ECB – Economic Bulletin / Statistics]

The European Central Bank (ECB) has published an update on economic and monetary developments in the euro area based on the last Governing Council meeting in early December. The expected scenario in the euro area is a moderate economic growth with stabilization signs. This bulletin focuses on 5 different economic areas: (i) external environment, (ii) financial developments, (iii) economic activity, (iv) prices and costs and (v) money and credit. In addition, the ECB also includes in the publication the statistics used in the economic survey.

Other publications of interest

Others

DGSD

(11/02/2020) EBA – Proposals to improve the current DGSD legal framework

The EBA has published its third and final Opinion addressed to the European Commission (EC) on the implementation of the Deposit Guarantee Schemes Directive (DGSD) in the EU. The Opinion focuses on deposit guarantee schemes (DGSs) funding and uses of DGS funds and proposes a number of changes to the EU legal framework, aimed at strengthening depositor protection, enhancing financial stability and reinforcing financial resilience of DGSs. In its Opinion, the EBA assesses 33 different topics related to DGS funding and uses of DGS funds and sets out 23 proposals on how to improve current EU legal framework, in particular, the EBA calls for the need to clarify what funds count towards DGS's available financial means and the use of DGS funds for failure prevention.

TRV

(19/02/2020) ESMA – Report on Trends, Risks and Vulnerabilities

The European Securities and Market Authority (ESMA) has published a Report on Trends, Risks and Vulnerabilities (TRV). The purpose of this Report is to inform about the European economic situation through risk assessment in different key areas such as securities markets, consumers, asset management, infrastructures and services, financial innovation and sustainable finance among others. ESMA identifies continued high risks and a weaker economic outlook as markets remain highly sensitive to geopolitical events like Brexit. Definitely, the risk outlook is stable, however risks are high, particularly in the securities markets and for retail investors and consumer.

€STR

(19/02/2020) ECB – Report on the transfer of liquidity from EONIA's cash and derivatives products to the €STR

The European Central Bank (ECB) has published a Report on the transfer of liquidity from EONIA's cash and derivatives products to the €STR with the aim of supplementing a previous report from the working group on the impact of the transition from EONIA to the €STR on cash and derivatives products (published in August 2019) and provides clarifications around specific topics that have been discussed since then. In this new report, the working group recommends a seamless transition from EONIA to €STR products and also highlights that contracts referenced to EONIA with maturities beyond 3 January 2022 would entail significant risks. Therefore, market participants should replace EONIA products with €STR products and reduce their EONIA-linked legacy exposures as soon as possible.

G-SIIs

(05/03/2020) EBA – Consultation Paper: RTS on the identification methodology for global systemically important institutions (G-SIIs)

The European Banking Authority (EBA) has published a Consultation Paper (CP) to update the RTS on the identification methodology for G-SIIs prompted by the revised framework for global systemically important banks (G-SIBs) published by the Basel Committee on Banking Supervision (BCBS) in July 2018 and, by the recent mandate given to the EBA to draft an additional methodology for the allocation of G-SII buffer rates to identified G-SIIs. In particular, this document includes: i) the draft RTS on the identification of G-SIIs, ii) the draft ITS on disclosure of indicators of global systemic importance, and iii) and the draft revised guidelines on the specification of indicators of global systemic importance and their disclosure.

ESMA Newsletter

(09/03/2020) ESMA – Newsletter - Nº12

The ESMA has published its twelfth edition of the ESMA newsletter. In this publication the ESMA highlights the publication of its strategy on sustainable finance and the two public consultations that will carry out in March: the first one on MiFID II / MiFIR review report on the transparency regime for non-equity instruments and the trading obligation for derivatives and the second on Draft RTS under the Benchmarks Regulation. Also, a full list of all other February publications is also included.

Credit insurance

(09/03/2020) EBA – Opinion on the treatment of credit insurance in the prudential framework

The EBA has published an Opinion on the treatment of credit insurance in the prudential framework which complements a previously provided policy advice with additional considerations related to the treatment of credit insurance as a credit risk mitigation technique for the purpose of the calculation of own funds requirements. In particular, this Opinion refers exclusively to the specificities of credit insurance and should not be understood as addressing the overall aspects of the treatment of guarantees.

SECURITIES ISSUANCE STATISTICS

(11/03/2020) ECB – Euro area securities issues statistics: January 2020

The ECB has published the Euro area securities issues statistics from January 2020 with the aim of updating the information. The statistics analyze two main assets: debt securities and listed shares. In relation to the debt securities, it is highlighted that the annual growth rate of the outstanding amount of debt securities issued by euro area residents was 3.1% in January 2020, the same as in December 2019. And for the outstanding amount of listed shares issued by euro area residents, it has remained stable (0,0%) and with no variations with respect to December 2019.

BOS ECONOMIC BULLETIN

(25/03/2020) BoS – Boletín Económico. 1/2020

The Banco de España (BdE) has published the Economic Bulletin for the first quarter of 2020 with the aim of informing and providing the corresponding economic forecasts. It should be noted that, due to the unusually high level of uncertainty caused by the coronavirus, this report does not, unlike the usual, contain medium-term macroeconomic projections for the Spanish economy. The short period of time that has elapsed since the declaration of the state of alert means that there are still no indicators that would make it possible to measure with a minimum of rigor and precision the extent and duration of the effects of the crisis on activity and employment, which can be expected to develop very negatively in the short term.

ECB ECONOMIC BULLETIN

(25/03/2020) ECB – Economic Bulletin / Statistics

The European Central Bank (ECB) has published an update on economic and monetary developments in the euro area based on the last Governing Council meeting on 12 March. The unfolding COVID-19 epidemic is worsening the outlook for the global economy, making the global activity weaker than how was envisaged in the projections. This bulletin focuses on 6 different economic areas: i) External environment; ii) financial developments; iii) economic activity; iv) prices and costs; v) money and credit, and vi) fiscal developments. In addition, the ECB also includes in the publication the statistics used in the economic survey.

LEVERAGE RISK

(27/03/2020) ESMA – Public Consultation on guidance to address leverage risk in the AIF sector

The ESMA has published a CP on its draft guidance to address leverage risks in the Alternative Investment Fund (AIF) sector with the aim of promoting supervisory convergence in the way NCAs assess how the use of leverage within the AIF sector contributes to the build-up of systemic risk in the financial system, as well as how they design, calibrate and implement leverage limits. ESMA launched this CP as a measure to response to the recommendations of the European Systemic Risk Board (ESRB) in April 2018 to address liquidity and leverage risk in investment funds.

FINANCIAL EDUCATION

(30/03/2020) EBA – Financial Education Report 2019/20

The EBA has published the Financial Education Report (FER) 2019/2020 with the aim of reviewing and coordinating financial literacy and education initiatives by the NCAs. This report focuses mainly on: i) initiatives in respect of products and services that fall within the scope of action of the EBA's consumer protection mandate; ii) on financial education initiatives related to Financial Technology (FinTech), as set out in the EBA FinTech Roadmap, looking at digital financial literacy, crypto-assets, cybersecurity and disclosure to consumers via digital means; and, iii) providing a general overview of the policy context and the key trends in financial education and financial literacy initiatives.

ACCOUNTING REGULATION

(02/04/2020) ESMA – 2019 Report on enforcement of corporate disclosure

The ESMA has published the 2019 Annual Report on enforcement and regulatory activities related to corporate reporting within the European Economic Area (EEA) in order to harmonize the enforcement of the application of the new accounting standards IFRS 9 Financial Instruments, IFRS 15 Revenue from Contracts with Customers and IFRS 16 Leases. This report presents the 2019 activities of ESMA and of European accounting enforcers. In 2020, ESMA will undertake other activities to promote supervisory convergence and will continue developing high quality accounting standards, like the review of IFRS 10 Consolidated Financial Statements and IFRS 11 Joint Arrangements.

Other publications of interest

Others

Retail investments

(06/04/2020) ESMA – Annual Statistical Report Performance and Costs of Retail Investment Products in the EU

The European Securities and Markets Authority (ESMA) has published its second annual statistical report on cost and performance of retail investment products in the EU. In particular, this report highlights the following: i) Due to COVID-19 there are more volatile returns in the average fund; ii) fund costs remained broadly stable; iii) retail investors continue to have more costs that institutional investors; iv) higher risks entail higher costs; v) active funds had higher costs than passive funds, and vi) there is limited comparability across Member States.

Cross-border payments

(09/04/2020) FSB – Stage 1 report of the project to develop a roadmap to enhance cross-border payments

The Financial Stability Board (FSB) has published the Stage 1 report of its project to develop a roadmap to enhance cross-border payments, with the objective of making an assessment report of existing arrangements and challenges for global cross-border payments to the G20. In particular, focuses mainly on: i) Making cross-border payments a priority during the Saudi Arabian Presidency; ii) how enhancing cross-border payments requires addressing frictions in existing cross-border payment processes; iii) how financial innovation is creating opportunities to make payments more efficient, and iv) how global cross-border payments are carried out through a diverse multi-layered set of networks, among other topics.

Risks

(14/04/2020) EBA – 4Q29 Risk Dashboard / Annex

The European Banking Authority (EBA) has published its quarterly Risk Dashboard covering Q4 2019 data with the aim of summarising the main risks and vulnerabilities in the EU banking sector. This Risk Dashboard is based on a sample of 147 banks, covering more than 80% of the EU banking sector (by total assets), but does not reflect the impact from the COVID-19 pandemic. This includes that reported capital ratios do not fully reflect decisions to suspend dividends or other types of distributions recently taken by banks as a follow-up to competent authorities' statements and recommendations. Ahead of the Coronavirus crisis, EU banks' capital ratios and asset quality have improved and should enable EU banks to weather expected upcoming impacts and to provide lending to the economy at the time of need. However, return on equity (RoE) has further worsened. The annex contents the credit risk parameters.

Financial stability

(04/05/2020) BdE – Informe de Estabilidad Financiera

The BoS has published the Spring 2020 Financial Stability Report on the transmission channels and risks to financial stability of the COVID-19 pandemic, in order to report on the current and future situation of risks in the macro-financial environment. The report focuses on aspects such as financial and real estate markets, deposit institutions, the macroeconomic environment and the analysis of system vulnerabilities, among others.

Benchmarking

(04/05/2020) EBA – Updated ITS package for 2021 benchmarking exercise

The EBA has published an update to its Implementing ITS on benchmarking of internal approaches which include all benchmarking portfolios that will be used for the 2021 exercise. In particular, the main novelty is the inclusion of the IFRS9 template in order to analyze potential sources of variability stemming from the implementation of this new accounting standard.

SMEs

(06/05/2020) ESMA – Consultation Paper on the functioning of the regime for SME Growth Markets under the Markets in Financial Instruments Directive and on the amendments to the Market Abuse Regulation for the promotion of the use of SME Growth Markets

The ESMA has published a consultation paper on the functioning of the Small and Medium-sized enterprises (SME) Growth Market regime in the EU and on two draft technical standards, introduced by the amendments to the Market Abuse Regulation (MAR) for the promotion of the use of SME Growth Markets. In particular, this consultation paper seeks to promote and facilitate access to capital markets for SMEs by alleviating the administrative burdens of trading on public markets for SMEs, while at the same time safeguarding market integrity.

ECB

[(07/05/2020) ECB - ECB Annual report]

The ECB has published the Annual Report which describes the tasks and activities of the European System of Central Banks (ESCB), the reports on the Eurosystem's monetary policy and the Annual Accounts of the ECB. However, this report relate to the ECB's activities in 2019 was finalised before the global COVID-19 pandemic. Therefore, the ECB is fully committed to use its mandate to help the euro area through this crisis and as a result, the ECB's policy actions have evolved substantially to manage the current situation, compared to actions set up in Annual report.

RETIREMENT INTEREST-ONLY MORTGAGES

(14/05/2020) PRA – Responses to Occasional Consultation Paper 25/19 – Chapter 5: Retirement interest-only mortgages – PS12/20 / Appendix 1 / Appendix 2

The PRA has published a Policy Statement (PS) in order to give feedback to the Responses to Occasional Consultation Paper 25/19 – Chapter 5: Retirement interest-only mortgages – PS12/20. This PS also contains the update to Supervisory Statement (SS) 11/13 'Internal Ratings Based (IRB) approaches' (Appendix 1) and the update to SS10/13 'Credit risk – standardised approach' (Appendix 2). This PS is relevant to all banks, building societies and PRA-authorised investment firms offering retirement interest-only (RIO) mortgages. It is also relevant to firms that have offered RIO mortgages in the past, or may do so in the future. The respondents generally supported the PRA's efforts to promote consistency in practice across firms, but raised a number of issues and requested clarification of the SS11/13 and SS10/13.

IFRS

(14/05/2020) IASB – Package of narrow-scope amendments to IFRS Standards

The International Accounting Standards Board (IASB) has published a package of reforms that includes narrow-scope amendments to three IFRS Standards as well as on the Board's Annual Improvements, which are changes that clarify the wording or correct minor consequences, oversights or conflicts between requirements in the Standards. In particular, this package made amendments to: i) IFRS 3 Business Combinations by updating a reference in IFRS 3 to the Conceptual Framework for Financial Reporting without changing the accounting requirements for business combinations; ii) IAS 16 Property, Plant and Equipment by stablishing that a company will recognise the cost of property, plant and equipment amounts received from selling items produced while the company is preparing the asset for its intended use in profit or loss; iii) IAS 37 Provisions, Contingent Liabilities and Contingent Assets by specifying which costs a company includes when assessing whether a contract will be loss-making, and iv) Annual Improvements by making minor amendments to IFRS 1 First-time Adoption of International Financial Reporting Standards, IFRS 9 Financial Instruments, IAS 41 Agriculture and the Illustrative Examples accompanying IFRS 16 Leases.

BENCHMARKS

(18/05/2020) ESMA – Hearing on draft Regulatory Technical Standards (RTS) under the Benchmarks Regulation (BMR) / Consultation Paper on Draft Regulatory Technical Standards under the Benchmarks Regulation

The ESMA has announced that it will host an open hearing for receiving feedback to the Consultation Paper (CP) on Draft RTS under the Benchmarks Regulation. In particular, the discussion will be done over the following headings of the CP: i) governance arrangements; ii) methodology; iii) reporting of infringements; iv) mandatory administration for critical benchmarks, and v) compliance statement.

ECB DECISIONS

(22/05/2020) ECB – Decisions taken by the Governing Council of the ECB

The ECB has published a set of decisions taken by the Governing Council of the ECB. In particular, these decisions are about the following topics: i) external communication; ii) market operations; iii) financial stability and supervision; iv) market infrastructure and payments; v) advice on legislation; vi) corporate governance; vii) international and european cooperation, and viii) banking supervision.

Other publications of interest

Others

Insurance special purpose vehicles

(22/05/2020) PRA – Policy Statement 13/20 Insurance special purpose vehicles: Updates to authorisation and supervision

The PRA has published a Policy Statement (PS) on insurance special purpose vehicles (ISPV) which provides feedback to the previous Consultation Paper on this topic. In particular, this PS is relevant for parties who wish to apply for, or have obtained authorisation as, an ISPV. Also it is relevant for insurers and reinsurers seeking to use UK ISPVs as risk mitigation in accordance with Solvency II.

ECB Financial Stability Review

(26/05/2020) ECB – Financial Stability Review, May 2020

The European Central Bank (ECB) has published the Financial Stability Review on May 2020 with the aim of assessing developments relevant for financial stability, including identifying and prioritizing the main sources of systemic risk and vulnerabilities for the euro area financial system. In this report, the ECB has identified five main points, mainly related to the effects on financial stability of the COVID-19 pandemic: i) macro-financial and credit environment, ii) financial markets, iii) euro area banking sector, iv) non-bank financial sector and v) macroprudential policy issues.

CRA evaluation schedule

(27/05/2020) OCC – OCC Issues Third and Fourth Quarter 2020 CRA Evaluation Schedule / Schedule

The Office of the Comptroller of the Currency (OCC) has released its schedule of Community Reinvestment Act (CRA) evaluations to be conducted in the third quarter and fourth quarter 2020. The OCC encourages public comment on the national banks and federal savings associations scheduled to be evaluated under the CRA.

Industrial banks

(27/05/2020) FDIC – FDIC Extends Comment Period on Proposal to Ensure Safety and Soundness of Industrial Banks

The Federal Deposit Insurance Corporation (FDIC) has extended the public comment period for its proposed rule regarding industrial banks and industrial loan companies by 30 days to July 1, 2020. On March 17, 2020, the FDIC Board of Directors approved for publication a proposed rule regarding the organization or acquisition of an industrial bank by companies not supervised by the Board of Governors of the Federal Reserve System. The proposed rule would formalize a supervisory framework that will ensure the safe and sound operation of the industrial bank.

FCA PMB Newsletter

(27/05/2020) FCA – Primary Market Bulletin Issue No. 28 coronavirus (Covid-19) update

The FCA has published the 28th edition of the Primary Market Bulletin (PMB). In this special edition, the FCA includes: i) a statement on temporary relief for the timing of the publication of half yearly financial reports; ii) a statement on market practice on ‘going concern’ assessments; iii) comments on FCA view on issuers’ engagement with shareholders at COVID-19 situation and issuers’ role in delivering ‘soft pre-emption’ in placings; iv) Market Watch newsletter, which contains commentary on market conduct and discipline in the context of coronavirus; and v) recent publications by various agencies.

MiFID II, MiFIR, EMIR and Securitisation Regulation application

(28/05/2020) ESMA – ESMA updates its Questions and Answers on the Securitisation Regulation / ESMA updates Q&AS on MiFID II investor protection / ESMA publishes updates to EMIR Q&As

The European Securities and Markets Authority (ESMA) has updated its Questions and Answers (Q&A) document on: i) the Securitisation Regulation; ii) the implementation of investor protection topics under the Market in Financial Instruments Directive and Regulation (MiFID II/ MiFIR); and iii) data reporting issues, under the European Markets Infrastructure Regulation (EMIR). The purpose of this documents is to promote common, uniform and consistent supervisory approaches and practices in the application of these regulations and to help regulated entities comply with their obligations.

MiFID II / MiFIR

[(08/06/2020) ESMA – MiFID II: ESMA issues latest Double Volume Cap data]

The ESMA has updated its public register with the latest set of double volume cap (DVC) data under MiFID II. This publication include DVC data and calculations for the period 1 May 2019 to 30 April 2020 as well as updates to already published DVC periods. The number of new breaches is 64: 52 equities for the 8% cap, applicable to all trading venues, and 12 equities for the 4% cap, that applies to individual trading venues. As of 8 June 2020, there is a total of 337 instruments suspended. In addition, ESMA highlights that none of the previously identified breaches of the caps proved to be incorrect thus no previously identified suspensions of trading under the waivers had to be lifted.

Financial Indicators

[(08/06/2020) ECB – EU structural financial indicators: end of 2019]

The ECB has updated its dataset of structural financial indicators for the banking sector in the EU for the end of 2019. This annual dataset comprises statistics on the number of branches and employees of EU credit institutions, data on the degree of concentration of the banking sector in each EU Member State, and data on foreign-controlled institutions in EU national banking markets. As for the number of branches, the structural financial indicators show a further decline in the EU, on average by 6.3%. The share of total assets of the five largest credit institutions, at national level, ranged from 28% to 97%, while the EU average was 65% at the end of 2019. The changes in the share of total assets of the five largest credit institutions varied across countries from -3.1% to 7.8%. In the EU, the average variation was 1.5%.

Macroeconomic projections

[(08/06/2020) BdE – Proyecciones macroeconómicas de la economía española (2020-2022):contribución del Banco de España al ejercicio conjunto de proyecciones del Eurosistema de junio de 2020]

The Bank of Spain (BoS) has published macroeconomic projections of the Spanish economy for the period 2020-2022. The BoS projects that in the early recovery scenario Spanish GDP would fall by 9% this year, and rebound by 7.7% and 2.4%, respectively, in 2021 and 2022. Under the gradual recovery scenario, economic recovery would be slower, so that GDP would fall by 11.6% in 2020 and grow by 9.1% and 2.1% in each of the following two years. All components of demand, with the exception of public consumption and investment, would show substantial contractions in 2020 and rebound strongly thereafter. The general government deficit would rise to 9.5% this year in the early recovery scenario and 11.2% in the gradual recovery scenario.

FASB Standards

[(10/06/2020) FASB – FASB approves new standards and a proposed effective date delay at final meeting of chairman Russell G. Golden]

The Financial Accounting Standards Board (FASB) has approved the issuance of two upcoming Accounting Standards Updates (ASUs): one that improves financial reporting associated with accounting for convertible instruments and contracts in an entity's own equity, and one that improves how not-for-profit organizations present and disclose contributed nonfinancial assets, also known as gifts-in-kind. The FASB also voted to issue a proposed ASU that would delay the effective date for its standard that improves financial reporting for insurance companies that issue long-duration contracts, such as life insurance, disability income, long-term care, and annuities.

SONIA

[(11/06/2020) BoE – Supporting Risk-Free Rate transition through the provision of compounded SONIA]

The Bank of England (BoE) published in February a discussion paper with the aim to accelerate the adoption of SONIA as a reference rate in sterling markets. After reviewing market participants' comments on the proposal, the BoE has confirmed that it will publish a daily SONIA Compounded Index. It anticipates that publication of the SONIA Compounded Index will commence in early August, although the precise date will be confirmed in due course. Furthermore, given a lack of consensus on both the usefulness of SONIA "period averages" and the conventions underpinning such rates, the BoE will not be producing them at this time.

Other publications of interest

Others

ANNUAL REPORTS

(15/06/2020) ESMA – 2019 Annual Report / Updated 2020 Annual Work Programme

The ESMA has published its Annual Report, which reviews the achievements from 2019 against its mission of enhancing investor protection and promoting stable and orderly financial markets in the European Union. The Annual Report sets out ESMA's key actions taken in the previous year. In addition to that and amid the COVID-19 outbreak, the ESMA's work has been recently focusing on its response to the crisis. In order to reflect these challenging times for the financial markets, ESMA has also published a revised version of its 2020 annual Work Programme. The latter includes the Authority's additional work on its immediate reaction to the crisis and indicates potential deprioritization regarding ongoing and future mandates.

(17/06/2020) CNMV – Informe anual sobre los mercados de valores y su actuación 2019

The Comisión Nacional del Mercado de Valores (CNMV) has published the annual report for 2019 on the stock markets and their performance. In 2019, the number of entities registered with the CNMV increased overall, especially the number of venture capital and closed-end investment company managers (SGEIC), but also the number of fund managers (SGIIC) and investment service companies (ESI). He also highlighted the activity of creating venture capital funds and companies. The supervision of institutions in aspects of conduct was particularly concerned with matters such as online operations, suitability and convenience tests and the marketing of complex products to retail investors. In addition, the CNMV opened 18 new disciplinary proceedings, with proposed fines of 9.3 million euros (5.01 million in 2018).

(17/06/2020) EIOPA – Report on supervisory Activities in 2019 / Annual report 2019

The EIOPA has published its Annual report and the Report on supervisory activities in 2019 highlighting activities and achievements throughout the course of the year, covering both prudential and conduct of business supervision. A key area of work in 2019 focused on proposing amendments to Solvency II in the context of the 2020 Review of Solvency II as a result of the identification of inconsistencies in the implementation of some areas of Solvency II. In the area of supervision of emerging risks, EIOPA concluded a thematic review on the use of Big Data analytics in motor and health insurance and carried out a public consultation on draft Guidelines on information and communication technology security and governance.

(18/06/2020) BoE/PRA – Bank of England Annual Report and Accounts 2020 / Prudential Regulation Authority Annual Report 2019/20

The Bank of England (BoE) and the Prudential Regulation Authority (PRA) have published its Annual Reports and Accounts for the period from 1 March 2019 to 29 February 2020, which provides information on their activities and finances for the preceding year. Among the main strategic goals of the PRA during this period, it can be highlighted: i) robust prudential standards; ii) adapt to changes in the external market; iii) ensure that firms are adequately capitalized; or iv) supervision of operational resilience.

MAIN STREET LENDING PROGRAM EXPANSION

(15/06/2020) Fed – Federal Reserve Board announces it will be seeking public feedback on proposal to expand its Main Street Lending Program to provide access to credit for nonprofit organizations

The Fed announced it will be seeking public feedback on a proposal to expand its Main Street Lending Program to provide access to credit for nonprofit organizations. As with the existing Main Street Lending Program, which targets small and medium-sized businesses, the proposed expansion would offer loans to small and medium-sized nonprofits that were in sound financial condition before the coronavirus pandemic and could benefit from additional liquidity to manage through this challenging period. Loan terms under the proposed Main Street nonprofit loans, including the interest rate, deferral of principal and interest payments, and five-year term, are the same as for Main Street business loans.

EURO RISK-FREE RATES

(16/06/2020) ECB – Working group on euro risk-free rates recommends voluntary compensation for legacy swaption contracts affected by the discounting transition to the €STR

The private sector working group on euro risk-free rates has endorsed a recommendation that counterparties voluntarily exchange compensation for legacy swaption contracts affected by the transition of central counterparty discounting from the euro overnight index average (EONIA) to the euro short-term rate (€STR), which is planned for around 27 July 2020. The working group acknowledges that the modalities for implementing voluntary compensation may vary. It decided not to recommend one approach above others, as market feedback did not single out a preferred option.

Capital Market Union

[(17/06/2020) EP – Draft Report on further development of the Capital Market Union (CMU): improving access to capital market finance, in particular by SMEs, and further enabling retail investor participation]

The Committee on Economic and Monetary Affairs of the European Parliament (EP) has published the Draft Report on further development of the Capital Market Union (CMU): improving access to capital market finance, in particular by SMEs, and further enabling retail investor participation. This report focuses on: i) financing business; ii) promoting long-term and cross-border investments and financial products; iii) market architecture; iv) retail investors; v) financial education; vi) digitalization; and vii) the EU's role in global markets.

High-risk investments

[(18/06/2020) FCA – High-risk investments: Marketing speculative illiquid securities (including speculative mini-bonds) to retail investors]

The FCA has published Consultation Paper (CP) on high-risk investments: Marketing speculative illiquid securities (including speculative mini-bonds) to retail investors. The FCA wants to prevent harm to consumers from investing in complex, higher-risk products that they do not understand and are not suitable for them. Investing in these securities can cause unexpected and significant losses for retail investors. The temporary product intervention (TPI) for speculative illiquid securities (SISs) came into effect on 1 January 2020 and lasts for 12 months. It restricts speculative mini-bonds and preference shares from being mass-marketed to retail investors. It also improves disclosure of key risks and costs to the limited number of retail investors who are still eligible to receive promotions for them. This CP proposes making the TPI permanent, with a small number of changes.

Clearing houses

[(23/06/2020) EU Council – Clearing houses: Presidency and Parliament reach political agreement on recovery and resolution]

The European Parliament and Council have reached a deal on a common set of rules for central counterparties (CCPs) and their authorities to prepare for and deal with financial difficulties. The proposed rules aim at providing national authorities with adequate tools to manage crises and to handle situations involving failures of key financial market infrastructures. They build on the same principles as the recovery and resolution framework applying to banks. The main objectives of the reform are: i) to reduce the probability of CCP failure by introducing effective incentives for proper risk management; and ii) in case a financial difficulty would effectively arise, to preserve CCPs' critical functions, to maintain financial stability, and to prevent taxpayers from bearing the costs associated with their restructuring or resolution.

Central counterparties

[(25/06/2020) CPMI/IOSCO – CPMI-IOSCO publish a report on CCP auctions]

The Committee on Payments and Market Infrastructures (CPMI) and the International Organization of Securities Commissions (IOSCO) have published a report entitled "Central counterparty default management auctions – Issues for consideration". The report outlines certain issues that central counterparties (CCPs) should consider regarding default management auctions processes. The report includes this parts: i) CCP default management auctions: roles and responsibilities; ii) considerations for a successful default management auction; iii) operational considerations; iv) client participation; and v) default of a common participant across multiple CCPs.

IFRS 17

[(25/06/2020) IASB – Amendments to IFRS 17 Insurance Contracts to help companies with implementation]

The International Accounting Standards Board (IASB) has issued amendments to IFRS 17 Insurance Contracts aimed at helping companies implement the Standard and making it easier for them to explain their financial performance. The fundamental principles introduced when the Board first issued IFRS 17 in May 2017 remain unaffected. The amendments, which respond to feedback from stakeholders, are designed to: i) reduce costs by simplifying some requirements in the Standard; ii) make financial performance easier to explain; and iii) ease transition by deferring the effective date of the Standard to 2023 and by providing additional relief to reduce the effort required when applying IFRS 17 for the first time. The deferral of the effective date by two years, to annual reporting periods beginning on or after 1 January 2023.

Other publications of interest

Others

Swap margin rule

(25/06/2020) Fed – Agencies finalize amendments to swap margin rule

The Fed, FDIC, OCC along with the Farm Credit Administration and Federal Housing Finance Agency have finalized changes to their swap margin rule to facilitate the implementation of prudent risk management strategies at banks and other entities with significant swap activities. Under the final rule, entities that are part of the same banking organization generally will no longer be required to hold a specific amount of initial margin for uncleared swaps with each other, known as inter-affiliate swaps. The final rule will give firms additional flexibility to allocate collateral internally and support prudent risk management and safety and soundness. To help transition from LIBOR to alternative reference rates, the final rule allows swap entities to amend legacy swaps to replace the reference to LIBOR or other reference rates that are expected to end without triggering margin exchange requirements

Transferred loans

(25/06/2020) FDIC – Rule to Codify Permissible Interest on Transferred Loans

The FDIC has issued a final regulation to codify the agency's longstanding guidance that the valid interest rate for a loan is determined when the loan is made, and will not be affected by a subsequent sale, assignment, or other transfer of the loan. The rule reaffirms the longstanding 'valid when made' doctrine, a nearly 200-year-old principle in contract law. In codifying the longstanding FDIC guidance, the final rule addresses marketplace uncertainty regarding the enforceability of the interest rate terms of a loan agreement following a bank's assignment of a loan to a non-bank. It also promotes safety and soundness in the banking system by giving certainty around loans into the secondary market.

Too-big-to-fail Reforms

(28/06/2020) FSB – Evaluation of the effects of too-big-to-fail reforms: consultation report

The FSB has published a consultation report on the Evaluation of the effects of too-big-to-fail reforms. This report provides an evaluation of too-big-to-fail reforms for systemically important banks. These reforms were endorsed by the G20 in the aftermath of the 2008 global financial crisis and have been implemented in FSB jurisdictions over the past decade. The evaluation examines the extent to which the reforms are reducing the systemic and moral hazard risks associated with systemically important banks, as well as their broader effects on the financial system.

Annual Reports

(30/06/2020) BdE – Informe anual

The Bank of Spain (BoS) has presented its Annual Report which contains a review of the economic and financial evolution of the Spanish economy and the main risks and vulnerabilities it faces in the short and long term. Special attention is paid to the international environment, the euro area and economic policies. This year the report is accompanied by information on the impact of the COVID-19 crisis on the economy, as well as the role played by the various measures taken by the authorities to mitigate its impact.

(30/06/2020) BIS/IFRS/SRB – BIS Annual Economic Report and BIS Annual report / IFRS Foundation 2019 Annual Report / SRB 2019 Annual Report

The Bank for International Settlements (BIS) has published its annual report and annual economic report. In this publications, the BIS analyses central banks' response to the global economic sudden stop, induced in order to prevent a public health disaster. Furthermore, the IFRS Foundation has published its annual report and audited financial statements for the year 2019. Additionally, the Single Resolution Board has published its 2019 Annual Report detailing the progress made in promoting financial stability while protecting the taxpayer through Europe's banking resolution framework.

Benchmark transition

(07/07/2020) PRA – PRA statement on LIBOR transition and PRA resolution-related rules

The PRA has published a statement on LIBOR transition and PRA resolution-related rules, which outlines the PRA's view on the implications of LIBOR transition for contracts in scope of the Contractual Recognition of Bail-In and Stay in Resolution Parts of the PRA Rulebook. The PRA considers that, where the sole purpose of an amendment to a liability or a financial arrangement is to transition away from LIBOR, the amendment should not be considered a material amendment as the term applies to either the Contractual Recognition of Bail-In (CROB) Part or the Stay in Resolution (Stays) Part of the PRA Rulebook.

Benchmark transition

(09/07/2020) FSB/IAIS – FSB and Basel Committee set out supervisory recommendations for benchmark transition / Report on supervisory issues associated with benchmark transition from an insurance perspective

The FSB and the Basel Commitee on Banking Supervision (BCBS) a report on the benchmark transition which concludes that the continued reliance of global financial markets on LIBOR poses clear risks to global financial stability. Transition away from LIBOR by end–2021 requires significant commitment and sustained effort from both financial and non-financial institutions across many jurisdictions. The International Association of Insurance Supervisors (IAIS), for its part, has issued a report on supervisory issues associated with benchmark transition from an insurance perspective.

Interest Rates

(08/07/2020) ECB – Decision amending Decision (EU) 2019/1743 of the European Central Bank on the remuneration of holdings of excess reserves and of certain deposits

The European Central Bank (ECB) has considered that the funds mandatorily deposited with the ECB for the purpose of repaying financial assistance under Council Regulation (EU) 2020/672 should be exempt from negative interest rates. Therefore, Decision ECB/2019/31 should be amended accordingly. The new Decision states that the Accounts maintained with the ECB shall continue to be remunerated at the deposit facility rate. However, when deposits need to be held in those accounts in advance of the date on which a payment must be made in accordance with the legal or contractual rules applicable to the relevant facility, such deposits shall be remunerated during this advance period at zero per cent or the deposit facility rate, whichever is higher

Fund Managemenent

(09/07/2020) ESMA – Investors see lower net returns from potential closet index funds

The European Securities and Markets Authority (ESMA) has published a working paper on "closet indexing", which refers to the practice by which asset managers claim to actively manage their funds while actually following or staying close to a benchmark index. This practice has been criticized in recent years, out of concern that investors may be misled about a fund's investment strategy and objective. This study analyses the relationship between this practice and the costs and results obtained in equity funds domiciled in the EU. The study concludes that investors can expect lower net returns from funds that engage in this practice compared to genuinely actively managed funds, as the marginally lower fees resulting from this practice are offset by lower returns.

Trade Repositories

(09/07/2020) ESMA – ESMA consults on Guidelines on calculation of positions under SFTR

The ESMA has launched a consultation on draft Guidelines on the calculation of positions by Trade Repositories (TRs) under the Securities Financing Transactions Regulation (SFTR). The aim of the Guidelines is to ensure consistency of position calculation across TRs, with regard to the time of calculations, the scope of the data used in calculations, the data preparation, the recordkeeping of data and the calculation methodologies.

Cross-border payments

(13/07/2020) CPMI – CPMI report identifies steps to enhance cross-border payments

The Committee on Payments and Market Infrastructures (CPMI) has published a report on Enhancing cross-border payments, setting out 19 building blocks of a global roadmap, which aims to make lasting improvements in cross-border payments. This report forms part of a three-stage process initiated by the G20. While improvements to technology are one piece of the puzzle, international cooperation and collaboration will be crucial to reduce cross-border frictions.

Audit and ethic standards

(14/07/2020) MG – Monitoring Group publishes its Recommendations to Strengthen the International Audit and Ethics Standard-Setting System

The Monitoring Group (MG) (a group of international financial institutions and regulatory bodies committed to advancing the public interest in areas related to international audit-related standard-setting and audit quality) has published recommendations on Strengthening the International Audit and Ethics Standard-Setting System. Specifically, the recommendations are designed to achieve the following objectives: i) achieve an independent and inclusive, multi-stakeholder standard-setting system; ii) reinforce the consideration of the public interest within the standard-setting process and throughout the full cycle of standards' development, with enhanced independent oversight and standard-setting guided by the Public Interest Framework; and iii) foster the development of timely, high quality standards that respond to an accelerating pace of change.

Other publications of interest

Others

Branch closures

(16/07/2020) FCA – GC20/2: Branch and ATM closures or conversions

The Financial Conduct Authority (FCA) has published the guidance consultation 20/2 on branch and ATM closures or conversions. These proposals set out FCA's expectations that firms should carefully consider the impact of a planned closure or conversion of physical sites on their customers' everyday banking and needs for access to cash, and what alternatives they could make available. Furthermore, they clarify that the FCA expect firms to inform them of their decision to close branches or ATMs, or make a free to use ATM pay to use, and engage with the FCA on what steps they are taking to ensure they treat their customers fairly.

True lenders

(20/07/2020) OCC – Proposed True Lender Rule

The Office of the Comptroller of the Currency (OCC) has proposed a rule that would determine when a national bank or federal savings association makes a loan and is the "true lender" in the context of a partnership between a bank and a third party. Banks' lending relationships with third parties can facilitate access to affordable credit. However, the relationships have been subject to increasing uncertainty about the legal framework that applies to loans made as part of these relationships. This uncertainty may discourage banks and third parties from entering into relationships, limit competition, and chill the innovation that results from these partnerships—all of which may restrict access to affordable credit. The proposed rule would resolve this uncertainty by specifying that a bank makes a loan and is the "true lender" if, as of the date of origination, it: i) is named as the lender in the loan agreement; or ii) funds the loan.

Stock market

(22/07/2020) CNMV – Boletin de la CNMV: Informe de coyuntura en los mercados de valores y artículo sobre la generación de escenarios para los tests de estrés de los fondos de inversión

The Comisión Nacional del Mercado de Valores (CNMV) has published its quarterly newsletter for the second quarter of 2020. This edition includes the report "The evolution of national and international financial markets" which describes the most relevant trends in the financial markets during the second quarter of the year, which was marked by the crisis related to the coronavirus. The most relevant stock markets experienced notable revaluations during this second quarter, after the heavy losses of the first quarter, when the first episodes of confinement and paralysis of economic activity in most economies occurred. The rise in share prices continued until the first days of June when various international institutions and organisations released new, more negative economic forecasts, worsening forecasts of both the magnitude of the drop in production and the expected time of recovery.

Benchmark rate reform

(23/07/2020) ECB – ECB publishes good practices for banks to prepare for benchmark rate reforms

The ECB has published the results of its industry-wide assessment of banks' preparedness for the benchmark interest rate reforms. While banks are generally well aware of the complexity of the reforms and the challenges involved, their level of preparation leaves room for improvement, according to the survey. Banks are also generally behind schedule in implementing risk mitigation measures. The assessment of the survey results, which was conducted by ECB Banking Supervision, also revealed that banks had focused more on the transition from the euro overnight index average (EONIA) to the €STR than on the risks associated with the reform of the euro interbank offered rate (EURIBOR).

MiFID/MiFIR

(23/07/2020) ESMA – ESMA publishes the MiFID/MiFIR Annual Review Report

The European Securities and Markets Authority (ESMA) has published the MiFID/MiFIR Annual Review Report under Commission Delegated Regulation (EU) 2017/583 (RTS 2). This report lays down the thresholds for the liquidity criterion 'average daily number of trades' for bonds, as well as the trade percentiles. In the report, ESMA is suggesting to the EC to move to the next stage for: i) the criterion 'average daily number of trades' used for the quarterly liquidity assessment of bonds; and ii) the trade percentiles that determine the pre-trade sizes specific to the financial instrument for bonds. These measures are designed to increase the transparency available to market participants in the bond market.

€STR

(24/07/2020) ECB – ECB announces public consultation on the publication of compounded €STR rates

The ECB is considering the publication of compounded term rates based on the euro short-term rate (€STR) and has open a public consultation on this matter to ask for the views of the stakeholders. The publication would take place on a daily basis shortly after the €STR publication, and published maturities could range from one week up to one year. A daily index, making it possible to compute compounded rates over non-standard periods, is also envisaged as part of the publication.

BREXIT

(27/07/2020) PRA – Policy Statement 18/20: Asset encumbrance

The PRA has issued Policy Statement 18/20 on asset encumbrance which provides feedback to responses to Consultation Paper 24/19 Asset encumbrance and contains updated versions of Supervisory Statement (SS) 24/15 The PRA's approach to supervising liquidity and funding risks, SS9/17 Recovery planning, and SS20/15 Supervising building societies' treasury and lending activities. The policy set out in this Policy Statement has been designed in the context of the UK's withdrawal from the European Union and entry into the transition period, during which time the UK remains subject to European law.

(29/07/2020) EBA – The EBA calls on financial institutions to finalise preparations for the end of the transitional arrangements between the EU and UK

The EBA has published an statement where it recalls the importance of adequate preparations by financial institutions for the end of the transition period between the EU and UK. The EBA calls on the institutions to finalise the full execution of their contingency plans in accordance with the conditions agreed with the relevant competent authorities and ensure adequate communication to concerned EU customers. The EBA reminds financial institutions that the transition period between the EU and UK will expire on 31 December 2020, which will end the possibility for the UK-based financial institutions to offer financial services to EU customers on a cross-border basis (passporting). Financial institutions wishing to operate in the EU and offer services to their EU customers should ensure they have obtained the necessary authorisations and effectively establish themselves before the end of the transition period.

TRV

(12/08/2020) ESMA – Trends, Risks and Vulnerabilities (TRV) Report of 2020

The ESMA has published its second Trends, Risks and Vulnerabilities (TRV) Report of 2020 which analyses the impact of COVID-19 on financial markets during the first half of 2020 and highlights the risk of a potential decoupling of financial market performance and underlying economic activity, which raises the question of the sustainability of the current market rebound. The TRV also highlights specific risks for financial stability and investors in relation to Collateralised Loan Obligations (CLOs) model risk, EU fund industry interconnectedness and spill overs, research unbundling and closet index funds costs and performance.

PEPP

(14/08/2020) EIOPA – EIOPA finalises the regulation of the pan-European Personal Pension Product (PEPP) Draft RTS / Draft ITS / Technical advice on supervisory reporting / Technical advice on criteria for EIOPA's product intervention powers

The European Insurance and Occupational Pensions Authority (EIOPA) has delivered to the European Commission a set of draft Regulatory Technical Standards (RTS) and ITS and its advice on Delegated Acts to implement the framework for the design and delivery of the Pan-European Personal Pension Product (PEPP). EIOPA's proposed legal instruments follow the objective to unlock the potential of the European personal pension market by setting the right incentives for the creation of PEPPs, as portable, simple and cost-efficient products. The regulatory provisions include clear and enforceable quality criteria for PEPP to be followed by providers and so to ensure that European consumers will be offered high-quality, safe, transparent and simple PEPPs.

Other publications of interest

Others

Interest Rate Benchmark Reform

(25/08/2020) IASB – International Accounting Standards Board to issue Interest Rate Benchmark Reform - Phase 2

The International Accounting Standards Board (IASB) has published the Phase 2 of the Interest Rate Benchmark Reform, which amends IFRS 9, IAS 39, IFRS 7, IFRS 4 and IFRS 16, with the aim to assist entities with providing useful information to users of financial statements and to support preparers in applying IFRS Standards when changes are made to contractual cash flows or hedging relationships, as a result of the transition to alternative benchmark rates. In particular, this document proposes amendments to specific requirements relating to: i) modifications of financial assets and financial liabilities, including lease liabilities; ii) hedge accounting; iii) disclosures; and iv) risk components.

Brexit

(21/09/2020) EC – Financial stability: Commission adopts time-limited decision giving market participants the time needed to reduce exposure to UK central counterparties (CCPs)

The EC has adopted a time-limited decision to give financial market participants 18 months to reduce their exposure to UK central counterparties (CCPs). Central clearing is key for financial stability by mitigating credit risk for financial firms, reducing contagion risks in the financial sector, and increasing market transparency. Accordingly, industry is strongly encouraged to work together in developing strategies that will reduce their reliance on UK CCPs that are systemically important for the Union, as on 1 January 2021 the UK will leave the Single Market.

(22/09/2020) BoE – UK withdrawal from the EU: Changes before the end of the transition period

The Bank of England (BoE) has issued a consultation paper on the regulatory changes to be made prior to the Brexit. The EU Withdrawal Act 2018 converts directly applicable EU law into UK law and preserves domestic law that relates to EU membership, including domestic law and regulators' rules that were introduced to implement EU directives. The EU Withdrawal Act provides UK government ministers with powers to make changes to retained EU law so that it continues to operate effectively after the UK's withdrawal from the EU. The government has delegated these powers to the Bank of England (BoE) and the Prudential Regulation Authority (PRA). This consultation paper analyses the updates and modifications to be made before the end of the transition period to the BoE's and PRA's made EU Exit Instruments as a consequence of the transition period and the delay in the coming into force of these instruments from exit day to implement period completion day.

Conflict of Interests

(21/09/2020) IOSCO – IOSCO issues measures to reduce conflict of interests in debt capital raising

The Board of the International Organization of Securities Commissions (IOSCO) has published final guidance to help its members address potential conflicts of interest and associated conduct risks market intermediaries may face during the debt capital raising process. The guidance also seeks to address some specific concerns observed by certain regulators during the COVID-19 crisis that may affect the integrity of the capital raising process. Furthermore, the report explores the potential benefits and risks of Blockchain technology in addressing conflicts of interest in the debt capital raising process. The report also describes the key stages of the debt raising process and identifies where the role of intermediaries might give rise to conflicts of interest.

OFT

(25/09/2020) ESMA – ESMA consults on OFT regime

The ESMA has issued a CP seeking input on the functioning of the Organised Trading Facility (OTF) regime in the EU. The paper provides an overview of the functioning of the OTF regime and discusses the definition of OTFs, the use of discretion in the execution of orders and the current practice concerning the use of matched principal trading. In addition, the CP also at the trading venue perimeter including a discussion on the definition of multilateral systems and the boundaries of trading venues' authorisation, which are essential to a well-functioning OTF regime.

Benchmarks

(25/09/2020) ESMA – ESMA consults on fees for benchmarks administrators

The ESMA has launched, a Consultation on fees for benchmarks administrators under the BMR. The aim of the CP is to advise the EC on fees to be paid by the benchmark administrators that will be supervised by ESMA starting in January 2022. The CP contains ESMA's first proposal for BMR fees to be paid by third country administrators under the recognition regime and by administrators of a critical benchmark. The CP distinguishes between: i) one-off recognition fee to be paid by third country administrators applying for recognition; ii) one-off authorisation fee to be paid by administrators of critical benchmarks applying for authorisation; iii) annual supervisory fee to be paid by third country administrators; iv) and annual supervisory fee to be paid by administrators of a critical benchmark.

(29/09/2020) ESMA – ESMA updates regulatory technical standards (RTS) under the benchmarks regulation (BMR)

The ESMA, has published its final report containing new sets of draft RTS under the Benchmarks Regulation (BMR). These contain additional detailed rules to implement the European regulatory framework aimed at ensuring the accuracy and integrity of benchmarks across the EU. The draft standards include provisions ensuring: i) that the governance arrangements of administrators are sufficiently robust; ii) the potential manipulation of benchmarks is minimised, through additional rules regarding the methodology of calculation and controls to ensure the integrity of the data; and iii) common criteria are used across different Member States for the assessment of the mandatory administration of critical benchmarks and the compliance statement for non-significant benchmarks.

Monetary Policy

(28/09/2020) ECB – ECB amends monetary policy implementation guidelines

The ECB has published amendments to its guidelines on the implementation of monetary policy in the Eurosystem, applicable from 1 January 2021. The amended guidelines implement a decision taken by the Governing Council on 13 December 2019 whereby secured marketable assets other than asset-backed securities and covered bonds would no longer be accepted as Eurosystem collateral. Under the amended guidelines, the ECB will also phase out non-legislative covered bonds (i.e. contractual covered bonds) from the Eurosystem collateral framework. This means that by 1 January 2021 all covered bonds remaining in the collateral framework will be legislative covered bonds or multi-cédulas.

Credit Rating Agencies

(30/09/2020) ESMA – ESMA publishes final report for guidelines on internal control

The European Securities and Markets Authority (ESMA) has published the Final Report for its Guidelines on Internal Control for Credit Rating Agencies (CRA). The purpose of these Guidelines is to communicate what ESMA considers to be the characteristics and components of an effective internal control structure within a CRA. The guidelines are structured according to two main parts, establishing: i) ESMA's views on the components and characteristics that should be present in a CRA to demonstrate a strong framework for internal controls; ii) and ESMA's views on the components and characteristics that a CRA should evidence to demonstrate the effectiveness of internal control functions within such a framework.

Risks

(02/10/2020) EBA – Final Guidelines on the appropriate subsets of sectoral exposures in the application of a systemic risk buffer

The European Banking Authority (EBA) has launched the Final Guidelines on the appropriate subsets of sectoral exposures in the application of a systemic risk buffer (SyRB) with the aim to set a common framework to harmonise the design of the appropriate subsets of sectoral exposures to the application of an SyRB, facilitating a common approach throughout the EU, but also supporting reciprocation of the SyRB measures between Member States. These guidelines are meant to support relevant authorities in defining the specific subsets of sectoral exposures to which the SyRB may be applied.

Other publications of interest

Others

Risks

[(05/10/2020) EBA – EBA saw that NPL ratios remained stable in Q2-2020 although early signals of asset quality deterioration in banks' balance sheets start to appear]

The European Banking Authority (EBA) has published its quarterly Risk Dashboard from Q2 2020 summarising the main risks and vulnerabilities in the EU banking sector. Whereas capital ratios held up well, there are indications that the crisis starts to have an impact on asset quality. The CET1 ratio increased on a fully loaded basis by 30bps to 14.7. The rise of the capital ratios was supported by a contraction in risk weighted assets (RWAs), which was due to regulatory measures like the amendments in the SME support factor. The leverage ratio slightly contracted, from 5.2% in Q1 to 5.1%, on a fully loaded basis, driven by an increase in total assets. Non-performing loans (NPLs) stopped have moved slightly up in the last quarter. However, due to the increase in total loans and advances, the NPL ratio remained roughly stable. Return on equity (RoE) declined further to 0.5% from 1.3% in Q1.

(06/10/2020) PRA – Market risk: Calculation of risks not in value at risk, and stressed value at risk

The Prudential Regulation Authority (PRA) has published a Consultation Paper (CP) which sets out the proposals to update its expectations regarding: i) the measurement of risks not in value at risk (RNIV); and (ii) the meaning of 'period of significant financial stress relevant to the institution's portfolio' for sVaR calculation. The CP is relevant to all firms to which CRD IV applies. The PRA proposes that this changes would take effect from the publication of the final policy.

Product oversight and governance

(08/10/2020) EIOPA – EIOPA's approach to the supervision of product oversight and governance

The EIOPA has outlined its approach to the supervision of product oversight and governance (POG) requirements. This should support insurance manufacturers and distributors when implementing their own POG policies as well as to facilitate their engagement with national supervisors. The key objective of the supervision of POG is to ensure consumer-centric approaches are implemented in practice, as well as to provide clarity for insurance manufacturers and distributors on what to expect from the supervisory approach to POG requirements. This covers product approval, distribution, as well as monitoring and review processes.

Brexit

(13/10/2020) EIOPA – EIOPA calls on insurance sector to complete preparations for the end of the UK transition period

The EIOPA has urged the insurance sector to finalise preparations and implement suitable and realistic contingency plans in advance of the end of the UK transition period on 31 December 2020. In particular, EIOPA expects (re)insurance undertakings to have measures in place to prevent insurance activity without authorisation and ensure service continuity of cross-border business, as specified in the EIOPA Opinion issued in 2017, in order to minimise the detriment to policyholders and beneficiaries. EIOPA also reminds insurance undertakings and insurance intermediaries of their duty to inform customers about the possible impact of the withdrawal of the UK from the EU on insurance contracts. EIOPA will continue to monitor the preparations of the sector and in particular the development and implementation of contingency plans.

(21/10/2020) PRA/FCA – Letter from the PRA and FCA 'Final preparations for the end of the transition period'

The PRA and the Financial Conduct Authority (FCA) have prepared a letter outlining final preparations for end of the transition period which began when the UK left the EU on 31 January 2020. This letter sets out key areas requiring final preparations, including: i) contingency planning and continuity of cross-border business in respect of EU liabilities; ii) saving provision; iii) data protection; iv) EEA bank account closures; v) EEA passporting firms; vi) and the temporary Permissions Regime (TPR) firms' submission timeline.

Acounting standards

(20/10/2020) FASB – FASB proposes three targeted improvements to the leases standard

The Financial Accounting Standards Board (FASB) has issued a proposed Accounting Standards Update (ASU) intended to improve three areas of the leases guidance. The amendments in the proposed ASU address the following issues: i) Sales-Type Leases with Variable Lease Payments; ii) Option to Remeasure Lease Liability; and iii) The Modifications Reducing the Scope of a Lease Contract. Stakeholders are encouraged to review and provide comments on the proposed changes by December 4, 2020.

Own Funds

(21/10/2020) EBA – EBA issues Opinion to address possible infection risk stemming from legacy instruments

The European Banking Authority (EBA) has issued an Opinion to clarify the prudential treatment of the so-called "legacy instruments" in view of the end of the grandfathering period on 31 December 2021. In its Opinion, the EBA proposes policy options to address the infection risk when created by such instruments. The EBA's recommendations aim at ensuring a high quality of capital for EU institutions and a consistent application of rules and practices across the EU.

CCPS

(23/10/2020) ESMA – ESMA consults on standards for CCP activities and model amendments

The ESMA has launched a consultation on draft RTS related to changes to central counterparties' (CCPs) activities and models. Specifically, the RTS relate to the conditions for a CCP to add new additional services or activities to its business, that are not already covered by the initial authorisation. ESMA seeks input to its draft RTS regarding: i) the conditions under which additional services or activities require an extension of authorisation and the corresponding college consultation procedure; ii) the conditions under which changes to the models and parameters are significant and therefore require the such authorization; and iii) the corresponding college consultation procedure.

Brexit

(26/10/2020) ESMA – ESMA sets out final position on share trading obligation

The ESMA has released a public statement that clarifies the application of the EU's trading obligation for shares (STO) following the end of the UK's transition from the EU on 31 December 2020. The statement outlines that the trading of shares with a European Economic Area (EEA) ISIN on a UK trading venue in UK pound sterling (GBP) by EU investment firms will not be subject to the EU STO, since based on EU-wide data, regards that such trading by EU investments firms occurs on a non-systematic, ad-hoc, irregular and infrequent basis.

Remuneration Policies

(29/10/2020) EBA – EBA launches consultation on revised Guidelines on sound remuneration policies

The EBA has launched a public consultation on revised Guidelines on sound remuneration policies. This review takes into account the amendments introduced by the CRD V in relation to institutions' sound remuneration policies and in particular the requirement that those remuneration policies should be gender neutral. The revised Guidelines specify that institutions should implement a gender-neutral remuneration policy. The EBA will follow up on institutions' practices with a report to be published within two year after the publication of the final guidelines.

MIFID II/ MIFIR

(30/10/2020) ESMA – MIFID II: ESMA publishes data for the systematic internaliser calculations for equity, equity-like instruments, bonds and other non-equity instruments

The ESMA has published data for the systematic internaliser (SI) quarterly calculations for equity, equity-like instruments, bonds and for other non-equity instruments under the Markets in Financial Instruments Directive (MiFID II) and Regulation (MiFIR). ESMA has published the total number of trades and total volume over the period April-September 2020 for the purpose of the SI calculations under MiFID II for: i) 22,022 equity and equity-like instruments; ii) 120,876 bonds; and iii) 5,907 sub-classes of derivatives (including equity derivatives, interest rate derivatives, commodity derivatives, C10 derivatives, emission allowance and derivatives thereof and contracts for difference (CFDs).

Consumers´ Protection

(03/11/2020) EBA - EBA encourages financial institutions to put the required focus on consumers' interests whenapplying Product Oversight and Governance Arrangements

The EBA has published its second report on how the industry has implemented the EBA Guidelines on Product Oversight and Governance Arrangements (POG). It identifies good practices of financial institutions and concludes that many of them do not sufficiently put the required focus on ensuring that consumers' needs are met in line with the Guidelines. Therefore, the EBA has encouraged financial institutions to ensure that the interests, objectives and characteristics of consumers are taken into account when applying POG arrangements, in order to avoid consumer detriment.

Other publications of interest

Others

CSDR

(05/11/2020) ESMA - ESMA publishes its first reports on CSDR implementation

The European Securities and Markets Authority (ESMA) has published its first two reports on the implementation of the Central Securities Depositories Regulation (CSDR) covering central securities depositories' (CSDs) as well as internalised settlement. The first report highlights the findings related to the provision of services by CSDs in other Member States, and considers the responses to the ESMA survey addressed to National Competent Authorities (NCAs), CSDR relevant authorities and trade associations, in June and July. The second one presents the findings related to the settlement activity which does not take place through a securities settlement system operated by a CSD in the European Economic Area (EEA).

Risks Analysis

(09/11/2020) EIOPA - Risk Dashboard: European insurers slightly less exposed to risks compared to the beginning of COVID-19 outbreak but concerns remain

The EIOPA has published its updated Risk Dashboard based on the second quarter of 2020 Solvency II data. The results show that the risk exposures of the European Union insurance sector slightly reduced, compared to July risk assessment. Insurers are particularly exposed to very high levels of macro risk, while market, credit, profitability and solvency risks decreased to medium level. However, it should be noted that the risk assessment does not account for the outbreak of the second wave of the pandemic.

(11/11/2020) ESMA - ESMA sees potential for sudden reversal in investors' risk assessment

The European Securities and Markets Authority (ESMA) has published its second risk dashboard for 2020 which sees a continued risk of decoupling between asset valuations and economic fundamentals. The extent to which this an other risks will further materialise will critically depend on three drivers: i) the economic impact of the pandemic; ii) market expectations on monetary and fiscal support measures; and iii) any occurrence of additional external events in an already fragile global environment.

Financial Regulatory reforms

(13/11/2020) FSB - FSB publishes annual report on implementation and effects of financial regulatory reforms

The FSB has published its 2020 report on the implementation and effects of the G20 financial regulatory reforms. The report, which will be delivered to G20 Leaders ahead of their Summit, finds that the G20 reforms after the 2008 financial crisis have served the financial system well during the COVID-19 pandemic. Greater resilience of major banks at the core of the financial system has allowed the system largely to absorb, rather than amplify, the macroeconomic shock. Decisive actions by authorities sustained the supply of credit to the real economy and helped maintain global financial stability.

Payments Infrastrucure

(16/11/2020) ECB - ECB announces independent review of payments system outage

The European Central Bank (ECB) will launch an independent review of an incident that affected its real-time gross settlement system TARGET2 on 23 October 2020, causing an outage for almost 10 hours. TARGET2 is the leading European platform for processing large-value payment. The independent review will allow the Eurosystem to draw lessons from the incidents and address them. Furthermore, it will look into the robustness of the business continuity model, the adequacy of the regular recovery tests, the efficiency of the change management procedures and the communication protocols. The main findings of the review will be shared with market participants and made public by the second quarter of 2021.

Exempt credit thresholds

(18/11/2020) Fed - Agencies announce dollar thresholds in Regulations Z and M for exempt consumer credit and lease transactions / Agencies announce threshold for smaller loan exemption from appraisal requirements for higher-priced mortgage loans

The Federal Reserve Board (Fed) and Consumer Financial Protection Bureau (CFPB) have announced the dollar thresholds in Regulation Z, of Truth in lending and Regulation M, of Consumer leasing that will apply for determining exempt consumer credit and lease transactions in 2021. Furthermore, they have announced that the threshold for exempting loans from special appraisal requirements for higher-priced mortgage loans during 2021 will remain at $27,200, as it was in 2020. These thresholds are adjusted annually based on the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W).

Loan Enforcement

(18/11/2020) EBA - EBA publishes Report on benchmarking of national insolvency frameworks across the EU

The EBA has published its Report on the benchmarking of national loan enforcement frameworks across EU Member States, in response to the EU Commission's call for advice. The Report introduces for the first time a set of benchmarks for bank loan recovery and identifies areas where the divergence in the national insolvency regimes is wider. In addition, the Report provides an overview of the characteristics of insolvency regimes that help explain the differences across the EU.

Euribor

(23/11/2020) ECB - Consultation on EURIBOR fallback trigger events / Consultation on €STR-based EURIBOR fallback rates

The working group on euro risk-free of the rates from the European Central Bank (ECB) has released two public consultations on the topic of fallback rates to Euribor. Fallback rates are rates that can be relied upon in case of an unavailability of the main rate. In one consultation, stakeholders are invited to provide their views on fallback rates based on the euro short-term rate (€STR) and spread adjustment methodologies in order to produce the most suitable EURIBOR fallback measures per asset class. In the other consultation, stakeholders are invited to give their views on potential events that could trigger such fallback measures

Brexit

(25/11/2020) ESMA - ESMA sets out its final view on the derivatives trading obligation (DTO)

The ESMA has released a public statement that clarifies the application of EU´s trading obligation for derivatives (DTO) following the end of the UK's transition from the EU on 31 December 2020. The statement clarifies that the DTO will continue applying without changes after the end of the transition period. ESMA considers that the continued application of the DTO would not create risks to the stability of the financial system.

Lease

(27/11/2020) IASB - IASB proposes amendment to its leases Standard to improve accounting for sale and leaseback transactions

The IASB has proposed to amend IFRS 16 Leases by specifying how a company measures the lease liability in a sale and leaseback transaction. Sale and leaseback transactions are transactions for which a company sells an asset and leases that same asset back from the new owner. The proposed amendment would improve the sale and leaseback requirements already in IFRS 16 by providing greater clarity for the company selling and leasing back an asset both at the date of transaction and subsequently.

Mergers and Adquisitions

30/11/2020 IASB - IASB consults on possible new accounting requirements for mergers and acquisitions within a group

The International Accounting Standards Board (IASB) has launched a public consultation on possible new accounting requirements for mergers and acquisitions involving companies within the same group. The Board's view is that companies should provide similar information about similar business combinations when the benefits of that information to investors outweigh the costs of providing it. Specifically, the Board is suggesting that fair-value information should be provided when a business combination under common control affects shareholders outside the group. That suggestion is consistent with the existing requirements in IFRS 3 for mergers and acquisitions between unrelated companies. In all other cases, the Board is suggesting that book-value information should be provided using a single approach to be specified in IFRS Standards.

European Stability Mechanism

(30/11/2020) Council - Statement of the Eurogroup in inclusive format on the ESM reform and the early introduction of the backstop to the Single Resolution Fund

The Eurogroup has agreed to proceed with the reform of the European Stability Mechanism (ESM), which will further develop the ESM toolkit and strengthen the role of the ESM in the design, negotiation and monitoring of financial assistance programmes. It also provides for establishing a common backstop to the Single Resolution Fund (SRF) in the form of a credit line from the ESM to replace the Direct Recapitalisation Instrument, providing a financial safety net for bank resolutions in the Banking Union, which will help to protect financial stability. These changes will strengthen the resilience and crisis resolution capacities of the euro area.

Other publications of interest

Others

Libor

(30/11/2020) Fed/FDIC/OCC - Agencies issue statement on LIBOR transition

The federal bank regulatory agencies have issued a statement encouraging banks to cease entering into new contracts that use USD LIBOR as a reference rate as soon as practicable and in any event by 31 December 2021, in order to facilitate an orderly, and safe and sound, LIBOR transition.

Payment Behaviour

(02/12/2020) ECB -Gradual change seen in euro area payment behavior

The ECB has published its Study on the payment attitudes of consumers in the euro area (SPACE). The data published today will help the ECB and the national central banks of the euro area to better understand consumer demand and market trends, as well as to implement the Eurosystem's retail payments and cash strategies. These include the promotion of competitive, innovative and resilient pan-European market solutions, as well as a commitment to keep cash accessible and accepted as a means of payment throughout the euro area.

Valuation Practices

(03/12/2020) SEC – Good Faith Determinations of Fair Value

The Securities and Exchange Commission (SEC) is adopting a new rule that will address valuation practices and the role of the board of directors with respect to the fair value of the investments of a registered investment company or business development company. The rule will provide requirements for determining fair value in good faith for purposes of the Act. This determination will involve assessing and managing material risks associated with fair value determinations; selecting, applying, and testing fair value methodologies; and overseeing and evaluating any pricing services used.

Market Data

(03/12/2020) IOSCO - IOSCO consults on issues and concerns regarding market data

The Board of the International Organization of Securities Commissions (IOSCO) has released a consultation report on Market Data in the Secondary Equity Markets which describes the concerns about this topic and asks for industry views on both the issues and possible regulatory responses to them. The report identifies and describes the issues and concerns relating to: i) the market data necessary to facilitate trading in today's markets; ii) fair, equitable and timely access to market data; iii) the interchangeability of market data; iv) fees for market data; v) the need for and extent of data consolidation; and vi) additional products and services related to accessing market data.

Mergers and acquisitions

(07/12/2020) SRB – SRB publishes guidance on bank mergers and acquisitions

The Single Resolution Board has published a guidance outlining its expectations for how banks engaging in mergers and acquisitions (M&As) can ensure resolvability. Such transactions, in addition to prudential and competition law implications, are highly likely to have consequences for banks' resolvability. Ultimately, well-designed and well-executed transactions may enhance banks' resilience and profitability and strengthen their resolvability.

External audits

(07/12/2020) BCBS – Suplemental note to External audits of banks-audit of expected credit loss

The BCBS is issuing this supplemental note to the Committee's 2014 guidance on external audits of banks to contribute to the high-quality audit of banks. This note deals with the audit of the expected credit loss (ECL) accounting estimate within the overall financial statement audit. ECL frameworks bring significant change for banks and their external auditors and High-quality audit implementation and ongoing application requires considerable effort from all involved parties: management, audit committees and external auditors

IFRS Standards

(09/12/2020) IASB - IASB reviews package of IFRS Standards for group accounting

The International Accounting Standards Board (IASB) is calling for feedback as part of the Post-implementation Review (PIR) on the IFRS Standards for group accounting: i) IFRS 10 on Consolidated Financial Statements, IFRS 11 on Joint Arrangements and IFRS 12 on Disclosure of Interests in Other Entities. The Request for Information seeks feedback on applying the Standards and on the information provided to users of financial statements.

IFRS TAXONOMY

(17/12/2020) IASB – IASB issues IFRS Taxonomy Update for Interest Rate Benchmark Reform—Phase 2

The International Accounting Standards Board (IASB) has issued an update to the IFRS Taxonomy 2020 to reflect Interest Rate Benchmark Reform (Phase 2), issued in August 2020, which amended IFRS 9, IAS 39, IFRS 7, IFRS 4 and IFRS 16.

EMIR

(17/12/2020) ESMA – ESMA publishes draft technical standards under EMIR REFIT

The ESMA, the EU's securities markets regulator, has published a Final Report on technical standards (RTS and ITS) under the EMIR REFIT Regulation. The report covers data reporting to Trade Repositories (TRs), procedures to reconcile and validate the data, access by the relevant authorities to data and registration of the TRs.

BREXIT

(21/12/2020) PRA – Bank Recovery and Resolution Directive II – PS28/20

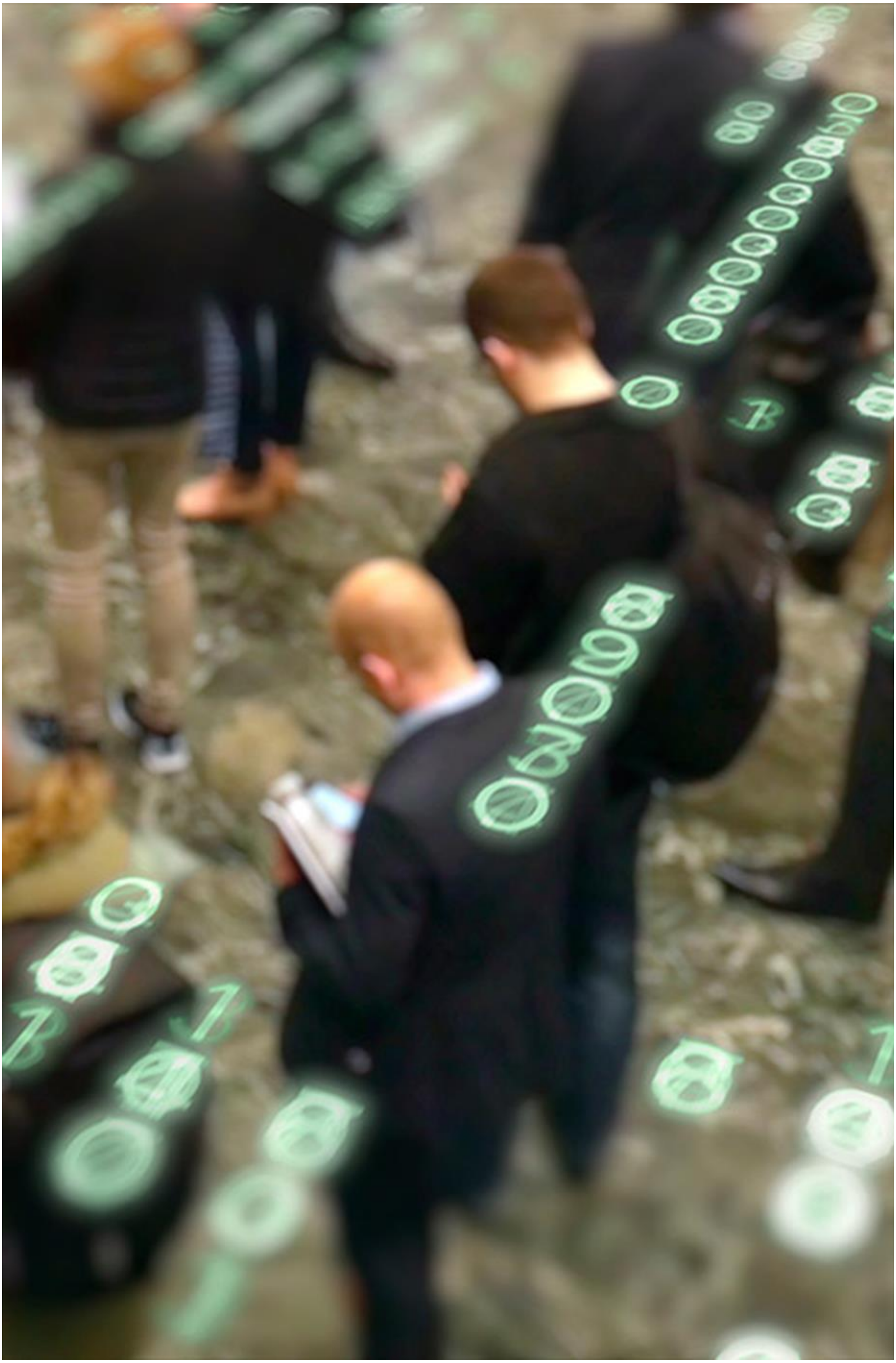
The Prudential Regulation Authority (PRA) has released a Policy Statement (PS) which provides feedback to responses to Consultation Paper (CP) 18/20 Bank Recovery and Resolution Directive I. It also contains the PRA's final policy which has been designed in the context of the UK's withdrawal from the European Union and entry into the transition period. The policy set out in this PS that will come into effect at the end of the transition period (on IP completion day) will need to be amended under the EU (Withdrawal) Act 2018 (EUWA).

(28/12/2020) PRA – The Bank of England's amendments under the European Union (Withdrawal) Act 2018: Changes before the end of the transition period

The PRA has published the PS 27/20 which contains the final PRA Rulebook (EU Exit) Instrument (Appendix 1), PRA transitional direction (Appendix 2), and related guidance documents (Appendices 4 – 7). This PS is relevant to all firms authorised and regulated by the PRA. Some of the changes are also relevant to firms authorised and regulated by the Financial Conduct Authority (FCA), and to the Financial Services Compensation Scheme (FSCS).

(30/12/2020) Gob.Esp – Real Decreto-Ley de medidas de adaptación tras finalizar el periodo transitorio para la salida de Reino Unido de la UE

The Spanish government has approved the Royal Decree Law adopting adaptation measures after the end of the transitional period for the UK's exit from the EU in order to deal with the consequences of this exit. With regard to financial services, contracts for the provision of banking, securities or insurance services under which an entity provides services in Spain while being domiciled in the UK, and which were concluded before 1 January 2021, will remain in force



Management Solutions' Alert System on Regulation

Management Solutions promotes immediate knowledge of regulatory developments among its professionals and customers through FinRegAlerts App

Alert System on Regulation

- The R&D department in Management Solutions monitors on a daily basis the regulatory publications from more than 20 financial regulators and supervisors.
- For those publications which are more likely to give rise to significant effects upon MS clients, the R&D department has been sending out publication alerts since the beginning of 2013
- Alerts are published in Spanish and English within 48 hours since the publication by the regulatory body.
- Moreover, quarterly MS publishes the Regulation Outlook, a report that collects the alerts of the period and anticipates the main upcoming regulatory changes.
- Management Solutions' service on financial regulatory alerts is provided through the FinRegAlerts App for mobile devices, which is available for free download in the main app stores:

Regulators

Global	FSB, BCBS, IASB, IOSCO, IAIS
EU	EC, EP, Council, EBA, ESMA, EIOPA, ECB, SRB
US	SEC, Fed, OCC, FDIC
UK	BoE, PRA, FCA
Spain	BdE, Spanish Government, Cortes Generales, CNMV

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Manuel Ángel Guzmán Caba
Partner in Management Solutions
manuel.guzman@managementsolutions.com

Marta Hierro Triviño
Director in Management Solutions
marta.hierro@managementsolutions.com

Mikel Pedrosa Dorronsoro
R&D Consultant in Management Solutions
mikel.pedrosa.dorronsoro@managementsolutions.com

Management Solutions
Tel. (+34) 91 183 08 00
www.managementsolutions.com

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