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4Q22 Regulation Outlook

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Executive Summary

The fourth quarter brought the publication of two key European regulations for the sector: CSRD, which will promote customer sustainability information available to institutions, and DORA, which aims to ensure digital operational resilience. The ECB set digitalisation, climate change and operational resilience as supervisory priorities 2023-2025 and the PRA, following the European lead, published its proposal for "BIS IV".

European publications

- **Digital Operational Resilience Act (DORA) and Digital Operational Resilience Directive for the financial sector.** This legislation will ensure that the financial sector is able to cope with, respond to and recover from all types of ICT-related shocks and threats. (EP/Council, December 2022)

- **Supervisory Priorities 2023-2025,** which focus on: i) strengthening the operational resilience of institutions; ii) addressing digitalisation; and iii) tackling climate change. For each of these themes, the ECB will carry out a number of actions, such as inspections or publication of supervisory expectations, among others.

- **Final document on the Directive of corporate sustainability reporting Directive (CSRD)**. This Directive extends the reporting requirements and extends the requirements to all large companies as well as listed SMEs. rights, social, human and governance factors. (EP/Council, December 2022)

- **Final document on European Sustainability Reporting Standards (ESRS)**. Establish reporting requirements on sustainability-related impacts, risks and opportunities in the CSR framework.. (EFRAG, November 2022)

- **Results of the 2022 thematic review on climate-related and environmental risks**. There is an improvement compared to the previous year, but there is still a need to implement more sophisticated methodologies, to have granular information and to cover all risk areas. (ECB, november 2022)

- **Basel III Monitoring Report**. They cover the impact of the finalisation of the Basel III reforms, including the revised market framework (commonly known as "BIS IV"). The EBA report takes into account the specificities of the European context, including for the first time an analysis of the impact of the CRR III proposal (the transposition of BIS IV in the EU). (BCBS/EBA, October 2022)

Local publications

- **Consultation Paper 16/22 on implementation of the Basel 3.1 standards**. The proposals address mainly: the calculation of RWAs by improving both the measurement of risk in internal models (IMs) and standardised approaches (SAs), and the comparability of risk measurement across firms. The implementation date of these reforms is scheduled for January 2025.(UK, PRA, December 2022)

- **CP22/20: Sustainability Disclosure Requirements (SDR) and investment labels.** Proposes the introduction of labels to help consumers navigate the market for sustainable investment products, and ensuring that sustainability-related terms in the naming and marketing products are proportionate to the sustainability profile of the product. (UK,FCA, October 2022)

- **Consultation Document 12/22**. Sets out the proposals to update the PRA's supervisory expectations for firms undertaking an Internal Capital Adequacy Assessment Process (ICAAP) in relation to the risks from contingent leverage, and to introduce a new data reporting requirement for collecting data on trading exposures where these risks may most likely arise. . (UK, PRA, October 2022)

Regulatory outlook

In the coming quarter, further relevant publications related to sustainability are expected, such as the second Delegated Act of the European Commission's Green Taxonomy Regulation that will land the criteria for the four environmental objectives yet to be defined, as well as the IAIS consultation on the amendment of the Insurance Core Principles in relation to climate risk.

Featured regulatory projections

1. Next quarter

- **(Global) Q1 2023**:
  - IAIS: Consultation on amendments to Insurance Core Principles (ICPs) with regard to climate risk; and questions seeking initial stakeholder feedback on the overall package of climate-related work on supervisory practice
- **(Europe) Q1 2023:**
  - EBA: i) 2022 benchmarking report on IRB models; ii) 2022 benchmarking report on market risk models; iii) Multi-annual work programme (2024-2026 horizon).
  - EP/Council: Regulation laying down the requirements for artificial intelligence (AI Act).
  - EC: i) Multi-annual work programme (horizon 2023-2025); ii) Second Delegated Act on the remaining four objectives of the Taxonomy Regulation.
- **(UK) Q1/Q2 2023:**
  - FCA: DP on sustainability disclosure requirements (SDR) and labelling of investments.
- (**Europe) March 2023:**
  - ECB: Have a robust and comprehensive materiality assessment, including a sound analysis of the business environment.

2. Next year

- **(Global) 2023**:
  - ISSB: Publication of IFRS S1 (General requirements for sustainability-related financial disclosures) and IFRS S2 (Climate-related disclosures).
- **(Global) Q2 2023:**
  - IAIS: Publication of Issues Paper on Insurance Sector Operational Resilience.
- **(Global) Q3 2023:**
  - IAIS: Consultation on revised ICP 14 (Valuation) Consultation on revised ICP 17 (Capital Adequacy).
- **(Global) Q4 2023:**
  - IAIS: Consultation on changes to certain ICP guidance with relation to climate risk, as well as supporting material

- **(Europe) 2023**:
  - EBA: i) RTS on ESG disclosures for STS securitization; ii) review of RTS on sustainability disclosures PAI indicators; iii) CP on the Guidelines on ESG risks management; iv) Final report on prudential treatment exposures; v) CP on GL on institution´s stress testing.
  - EIOPA: i) GL promoting supervisory convergence under SFDR, MiFID II, Taxonomy Regulation, CSRD, the Benchmarks Regulation; ii) Amending RTS on the PAI framework and certain product disclosures under SFDR; iii) RTS; ITS; and GL as required under MiCA; iv) RTS and ITS under DORA including as relates to ICT risk management and third party risk management under DORA; v) Review of technical standards on MiFID II/MiFIR; vi) RTS on the notifications for cross-border marketing and management of AIFs and UCITS; vii) Revision of ITS on external credit assessment institution (ECAI) mapping for corporate ratings under the Capital Requirements Regulation (CCR) and Solvency II; viii) RTS on the minimum elements that should be included in a business reorganisation plan; ix) Revision of RTS on securitisation disclosure requirement (CP); x) Initiate one-off climate change stress test in cooperation with ESRB, ECB, EBA, ESMA.
- **(Europe) Q3 2023**:
  - EBA: i) GL on calculation of K IRB for dilution and credit risk (CP); vi) GL on diversity benchmarking under CRD and IFD; viii) GL on resolvability testing; ix) GL on Overall Recovery Capacity; xii) ITS on IRRBB reporting; xiii) ITS on supervisory disclosure.

- **(Europe) July 2023**:
  - EBA: Stress Test results 2023.
  - BoE: Stress Test results for 2022.
- **(Spain) 2023**:
  - Spanish government: Royal Decree implementing Article 32 of Law 7/2021, of May 20, on climate change and energy transition, is expected to be published.
- **(Europe) December 2023**:
  - ECB: Manage C&E risks in an institution-wide approach, including business strategy, governance and risk appetite, as well as risk management, including credit, operational, market and liquidity risk management.

3. More than a year

- **(Europe) 2024**:
  - EBA: i) Final guidelines on ESG risk management; ii) Third revision of the SREP guidelines; iii) Final guidelines on stress testing of institutions; iii) Greenwashing report; iv) ITS on ESG reporting.
- **(Europe) Q1 2024**:
  - EIOPA: i) Review of the digital transformation strategy, integrating it with the data and IT strategy, the SupTech Strategy and partially also the cyber underwriting strategy.
- **(Europe) July 2024:**
  - ESAs shall submit RTS/ITS specifying some aspects set out in DORA.
- **(Europe) 2025**:
  - EIOPA: i) Implementation of a cyber incident reporting system - Centralised data centre.

Application dates

1. Next quarter

- **(Global) January 2023**:
  - BCBS technical amendment on the capital treatment of securitisations of NPLs.
  - Amendments to IFRS 17 proposed by the IASB.
- **(Europe) January 2023**:
  - EC Delegated Act Supplementing the Climate Taxonomy on Climate which includes, under strict conditions, specific nuclear and gas activities in the list of economic activities covered by the EU taxonomy.
  - EBA Guidelines for common procedures and methodologies for the SREP.

2. Next year

- **(Europe) 2023**:
  - Implementation of the provisions amending the CRR III concerning: i) certain provisions concerning own funds and eligible liabilities; ii) amendments on the prudential requirements of investment firms; ii) certain changes on definitions of entities to be included in the scope of prudential consolidation (e.g. definition of investment holding company); iii) treatment of defaulted exposures and iv) changes to the definitions of institutions to be included in the scope of prudential consolidation.
- **(UK) June 2023:**
  - PS anti-greenwashing standard on sustainability disclosure requirements (SDR) and investment labelling.
- **(UK) July 2023:**
  - Rules and guidance introduced by the Consumer Duty in relation to new and existing products or services that are open to sale.
- **(Europe) May 2023**:
  - Implementation of the Digital Markets Regulation
- **(Europe) September 2023**:
  - Data Governance Act.
- **(Europe) December 2023**:
  - First date of reference for the disclosure of GAR.
  - ITS of the EIOPA on the amendments of supervisory reporting and disclosure requirements under Solvency II.

3. More than a year

- **(Europe) January 2024**:
  - EBA Guidelines on resolvability.
  - EBA final guidelines on transferability.
  - CSRD: application for companies already subject to the NFRD.
- **(Europe) February 2024**:
  - General application of the Digital Services Regulation
- **(Europe) June 2024**:
  - First date of reference for disclosure of additional (vs GAR) BTAR information.
- **(UK) June 2024**:
  - PS labelling, naming and marketing requirements and initial disclosure of PS on sustainability disclosure requirements (SDRs) and investment labelling.
- **(UK) July 2024:**
  - Rules and guidance introduced by the Consumer Duty in relation for closed products or services.
- **(Europe) November 2024**:
  - Exceptions to the general application of the Digital Services Regulation: Transparency of information obligations of online platform providers; Very large online platforms and very large online search engines; Independent auditing; Access to data and scrutiny; The supervision fee…
- **(Europe) December 2024**:
  - ECB: Be fully in line with all supervisory expectations, including a robust integration of C&E risks in the institutions' stress testing framework and in the ICAAP.
- **(Europe) 2025:**
  - General application of the provisions amending the CRR which introduce revisions to the Basel III framework in Europe.
  - Member States shall adopt and publish the regulations and administrative provisions necessary to comply with CRD IV amendments.
- **(Europe) January 2025**:
  - DORA application
  - CSRD: application for large companies not currently subject to the NFRD.
- **(UK) June 2025**:
  - FCA: i) first continuous disclosures related to sustainable performance; ii) entity-level disclosures in the sustainability report (large entities).
- **(Europe) January 2026:**
  - CSRD: implementation for listed SMEs, as well as for small and non-complex credit institutions and captive insurance companies.

Publications of the quarter

Summary of this quarter's most important publications

Theme	Title	Date	Page
	Basel Committee on Banking Supervision/ European Banking Authority		
Basel IV	• Basel III Monitoring Report	11/10/2022	12
	Financial Stability Board		
Crypto-assets	• Proposals for the regulation and supervision of crypto-assets activities	14/10/2022	14
Cross-border payments	• Priority issues on cross-border payments	14/10/2022	15
	European Central Bank		
Thematic review	• Results of the 2022 thematic assessment on climate and environmental risks	04/11/2022	16
Monitoring	• Supervisory priorities 2023-2025	16/12/2022	18
	European Banking Authority		
Work programme	• Work programme for 2023	04/10/2022	19
Client onboarding	• Final guidelines on the use of remote customer onboarding solutions,	05/12/2022	20
Transparency	• Annual risk assessment report (RAR) and results of the transparency exercise	14/12/2022	21
Sustainable finance	• Sustainable Finance Roadmap	15/12/2022	23
Recovery	• Consultation paper on draft guidelines on ORC in recovery planning	20/12/2022	25
	European Insurance and Pensions Authority		
Payment protection insurance	• Warning aimed at insurers and banks acting as insurance distributors to ensure that CPI products offer fair value to consumers.	11/10/2022	26
Work programme	• EIOPA's strategy for the period 2023-2026	11/10/2022	27
Unit-linked insurance	• Methodology for assessing value for money in the unit-linked market	02/11/2022	28
Stress test	• Results of the climate stress test exercise for the European occupational pensions sector.	16/12/2022	30
Volatility adjustments	• 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	20/12/2022	32

Summary of this quarter's most important publications

Theme	Title	Date	Page
	European Securities and Markets Authority		
Work programme	• Annual Work Programme (AWP) to 2023	14/10/2022	33
	Single Resolution Board (SRB)		
Work programme	• Annual Work Programme (AWP) to 2023	25/11/2022	34
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Digital Markets	• Digital Markets Act (DMA)	21/10/2022	35
Digital Services	• Digital Services Act (DSA)	04/11/2022	36
CSRD	• Corporate Sustainability Reporting Directive	05/12/2022	37
DORA	• Digital Operational Resilience Act (DORA)	05/12/2022	39
Critical entities	• Directive on the resilience of critical entities	13/12/2022	41
	European Financial Reporting Advisory Group		
Sustainability	• Final version of the ESRS	21/11/2022	42
	Federal Reserve		
Financial risks	• Draft principles for the management of climate-related financial risks for large financial institutions	09/12/2022	44
	PRA		
ICAAP	• Consultation Paper (CP) 12/22 on Risks from contingent leverage	17/10/2022	45
Basel IV	• CP16/22 on implementation of the Basel 3.1 standards	12/12/2022	46
	SEC		
Due diligence	• Proposal for new rules under the Securities Market Act concerning a broker-dealer's duty of best execution	23/12/2022	49
	UK Government		
Economic crime	• Draft law on economic crime and corporate transparency	02/11/2022	51

Publications of the quarter
Global publications

11/10/2022
Basel III Monitoring Report

1. Context

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). Later in 2019, the BCBS published the finalisation of the market risk framework, which included among others, a simplified standardised approach for use by banks that have small or non-complex trading portfolios and clarifications on the scope of exposures that are subject to market risk capital requirements.

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, as well as the finalisation of the market risk framework. Additionally, the monitoring report includes special features on banks' exposures to cryptoassets, and on capital buffers and total CET1 requirements. In parallel with this report, the EBA has issued its **Basel III Monitoring Report** which is based on the EBA Decision to render the QIS exercise mandatory for a representative set of EU/EEA credit institutions. Along with this document, the EBA has also published a separate **Annex** on the impact of the EC proposal for the EU implementation under the **Capital Requirements Regulation (CRR III)**. The reference date of the results of all the documents is 31 December 2021.

2. Main points

<u>BCBS - Basel III Monitoring Report</u>

- **Sample of banks**: 182 banks, including 117 of the Group 1 and 65 banks of the Group 2.
- **General aspects**:
  - The estimates presented generally assume <u>full implementation of the Basel III requirements</u>.
  - This report does not reflect the <u>additional capital requirements of Pillar 2</u> of the Basel III framework, as well as any capital buffers for systemic or countercyclical banks.

Change in total T1 MRC (weighted average in %)

	30 June 2021			31 December 2021		
	Group 1	G-SIBs	Group 2	Group 1	G-SIBs	Group 2
Increase of the mínimum requirement of Tier 1 MRC	3,3%	3,7%	8,4%	2,4%	2,2%	5,7%
CET1 ratio (%)	12,7%	12,5%	15,2%	13%	12,9%	14,5%
Target capital shortfalls (MM€)	2.3	2,3	1,3	0,1	0,1	1,2
TLAC shortfalls (MM€)	11,5	11,5	N/A	7,9	7,9	N/A

<u>EBA - Basel III Monitoring Exercise</u>

- **Sample of banks**: 163 banks from all European Economic Area (EEA) countries including 58 of the Group 1 and 62 banks of the Group 2.
- **General aspects**:
  - The impact is assessed on the assumption of the <u>full implementation of the Basel reforms</u> (i.e. 2028).
  - The baseline impact assessment methodology quantifies the difference in <u>the Pillar 1 minimum required capital</u> between the current EU implementation of the Basel standards (CRR/CRD IV) and the full Basel III implementation.

Change in total T1 MRC (weighted average in %)

Group	Credit Risk				Market risk	CVA	Op. risk	Output floor	Total risk-based	Revised LR	Total
	SA	IRB	Securit.	CCPs							
All banks	2,6	1,8	0,0	0,0	1,8	2,6	3,7	6,3	18,2	-3,3	15,0
G.1	1,8	1,7	0,0	0,0	2,0	2,9	4,2	7,1	19	-3,0	16,0
G-SIIs	2,0	3,4	0,0	0,0	3,5	3,4	6,3	6,5	24,9	-0,2	24,7
G.2	4,3	3,7	0,1	0,0	0,9	3,6	1,7	5,1	19,4	-7,7	11,8

EBA - Impact of the CRR III proposal for the EU.

This report compares the CDR IV/ CRR II framework with the CRR III proposal. That is, compared to the previous analysis, it incorporates the **additional features** of Basel III implementation in the EU (e.g. SME factor; infrastructure factor; treatment of equities in CRR III; simplified CVA methods...).

Change in total T1 MRC (weighted average in %)

Group	Credit Risk				Market risk	CVA	Op. risk	Output floor	Total risk-based	Revised LR	Total
	SA	IRB	Securit.	CCPs							
All banks	1,5	0,2	0,0	0,0	1,8	0,4	1,7	6,8	11,8	-1,1	10,7
G.1	1,2	0,1	0,0	0,0	2,0	0,4	2,0	7,8	12,8	-0,8	12,0
G-SIIs	1,7	1,2	0,0	0,0	3,5	0,8	2,4	7,7	17,1	2,9	20,0
G.2	3,0	0,9	0,0	0,0	0,5	0,3	0,3	1,9	7,0	-2,6	4,3

FSB FINANCIAL STABILITY BOARD

14/10/2022
Set of proposal for the regulation and supervision of crypto-asset activities

1. Context

The FSB is mandated by the G20 to examine regulatory and supervisory issues raised by crypto-asset activities with a focus to address financial stability risks. It found a number of structural vulnerabilities in those markets that were amplified by a lack of transparency and disclosures, flawed governance, inadequate consumer and investor protections, and weaknesses in risk management.

In this context, the FSB is submitting a **set of proposal for the regulation and supervision of crypto-asset activities**. They consist of: i) a report on proposed recommendations to promote the consistency and comprehensiveness of regulatory, supervisory and oversight approaches to crypto-asset activities and markets; and ii) a report on high-level recommendations on supervision, and oversight of "global stablecoin" (GSC) arrangements.

2. Main points

<u>Proposed recommendations to promote the consistency and comprehensiveness of regulatory, supervisory and oversight approaches to crypto-asset activities and markets</u>

- **Issues and challenges in regulatory, supervisory and oversight approaches to crypto-asset activities**. The main findings identified relate to: i) regulatory powers and their reach as well as potential gaps or challenges in their application; and ii) the effective regulation and supervision of crypto-asset activities and markets in a cross-border context.
- **A set of nine high-level recommendations**. Authorities should:
  - Have the <u>appropriate powers and tools</u>, and adequate resources, to regulate, supervise, and oversee crypto-asset activities and markets, including crypto-asset issuers and service providers.
  - <u>Apply effective regulation, supervision, and oversight to crypto-asset activities</u> and markets.
  - <u>Cooperate and coordinate with each other</u>, both domestically and internationally, to foster efficient and effective communication.
  - Require that crypto-asset issuers and service providers <u>have in place and disclose a comprehensive governance framework</u>.
  - Require crypto-asset service providers to have an <u>effective risk management framework</u> that comprehensively addresses all material risks associated with their activities.
  - Require that crypto-asset issuers and service providers have in place <u>robust frameworks for collecting and accurate reporting of data</u>.
  - Require that crypto-asset issuers and service providers disclose to users and relevant stakeholders comprehensive, <u>clear and transparent information regarding their operations, and risk profiles</u>.
  - <u>Identify and monitor the relevant interconnections</u>, both within the crypto-asset ecosystem, as well as between the crypto-asset ecosystem and the wider financial system.
  - Ensure that crypto-asset service providers that combine multiple functions and activities, for example crypto-asset trading platforms, <u>are subject to regulation, supervision and oversight that comprehensively address the risks associated with individual functions</u>.

<u>High-level recommendations for the regulation, supervision, and oversight of "global stablecoin" (GSC) arrangements</u>

- **Scope**. The recommendations focus on addressing risks to financial stability and therefore do not comprehensively cover important issues such as anti-money laundering and countering financing of terrorism (AML/CFT), data privacy, cyber security, or consumer and investor protection.
- **High-level recommendations**. The recommendations focusses, among others, on:
  - <u>Authorities' readiness</u> to regulate and supervise GSC arrangements and to mitigate financial stability risks they pose.
  - <u>Comprehensive oversight of GSC activities</u> and functions that focuses on promote a technology neutral approach that enables comprehensive oversight of GSC's functions and activities and mitigates regulatory arbitrage.
  - <u>Cross-border cooperation</u>, coordination and information sharing flexible and effective.
  - <u>Settlement of governance structures</u>, decentralised operations and risk management frameworks.
  - <u>Arrangements for proper data storage</u> and appropriate recovery and resolution plans.

3. Next Steps

- Comments to both reports can be sent before **15 December 2022**.
- The FSB aims to finalise the high-level recommendations on stablecoins by **July 2023**.

14/10/2022
Next steps for enhancing cross-border payments

FSB FINANCIAL STABILITY BOARD

1. Context

In 2020, the G20 leaders endorsed the roadmap for enhancing cross-border payments. The lines of work set out in this roadmap identified the way forward, through specific proposals, best practices and updated guidance. It also included quantitative targets for achieving cheaper, faster, more transparent, and more accessible cross-border payments. However, it has been considered necessary to outline a new phase of work on the roadmap.

In this context, the FSB has published priority issues on **cross-border payments for the continuation of the roadmap and a progress report on the roadmap**. The priority themes focuses on: i) the payment system interoperability and extension; ii) legal and regulatory frameworks; and iii) cross-border data exchange.

2. Main points

<u>G20 Roadmap for Enhancing Cross-border: priorities for the next phase of work</u>

- **Payment system interoperability and extension**. Work on this priority will focus on improvement of payment system interoperability and on extending and aligning the operating hours of key payment systems across jurisdictions, in order to speed up cross-border payments, improve liquidity management, and reduce settlement risk.
- **Legal, regulatory and supervisory frameworks**. Work under this priority will focus on the promotion of an efficient legal, regulatory and supervisory environment for cross-border payments while maintaining their safety, security, and integrity. In this regard, the work include applying Anti Money Laundering / Combatting the Financing of Terrorism (AML/CFT) rules consistently.
- **Cross-border data exchange and message standards**. Work under this priority will focus on facilitating cross-border data exchange and increasing the use of standardised messaging formats for cross-border payments. For that, it will be adopted a harmonized ISO 20022 version for message formats.

<u>Progress made during the second year of the roadmap</u>

The progress of the roadmap provides an update on all actions underway, around the main areas in which the roadmap is structured:

- **Committing to a joint public and private sector vision to enhance cross-border payments**. The FSB will publish a report on the current performance of cross-border payments at the end of November and will continue to work to improve the data to enhance the monitoring exercise.
- **Coordinating on regulatory, supervisory and oversight frameworks**. It will be established a working group to further explore and make recommendations related to the application of supervision to banks and non-banks regarding their cross-border payments activities.
- **Increasing data quality and straight-through processing by enhancing data and market practices**. Financial institutions and other entities in the payments ecosystem have been using APIs to enhance efficiency, facilitate automation and extend payment functionality. Therefore, the FSB will call for participation of relevant stakeholders assist in the evaluation of proposals for a set of API standards.
- **Exploring the potential role of new payment infrastructures and arrangements**. The FSB in cooperation with relevant stakeholders, is considering whether and how the use of well-designed and stablecoin arrangements could enhance cross-border payments. It is also considering what opportunities and challenges this would entail, and how this could impact central banks' core functions. The outcome of this work will be finalised by the end of this year.

Publications of the quarter
European publications

EUROPEAN CENTRAL BANK
EUROSYSTEM

04/11/2022
Results of the 2022 thematic review on climate-related and environmental risks

1. Context

In November 2020 the ECB published its Guide on climate-related and environmental risks to ensure that the banking sector effectively and comprehensively addresses climate-related and environmental (C&E) risks. In early 2021 institutions were requested to perform a self-assessment of their current practices against the expectations set out in the Guide and to inform the ECB of their implementation plans for advancing the management of C&E risks. The outcome of the assessment showed that while some institutions had taken considerable steps, none of the institutions were close to fully aligning their practices with supervisory expectations and the quality of institutions' implementation plans varied considerably.

In this context, the ECB has published the **Results of the 2022 thematic review on climate-related and environmental risks**. With this review the ECB conducted further deep dives into institutions' C&E risk strategies, as well as their governance and risk management frameworks and processes. In addition, the outcome of the thematic review has been incorporated into the 2022 SREP.

2. Main points

- **Scope**. The thematic review covered **107 significant institutions (SIs)** under the direct supervision of the ECB. Another **79 less significant institutions (LSIs)** under the supervision of national authorities from eight Member States also participated. The institution's practices are assessed from **three complementary perspectives**, namely their soundness, comprehensiveness and effectiveness of their practices.
- **The state of the banking sector**.
  - Approaches to managing C&E risks: The outcome of the 2022 thematic review shows that the majority of institutions **(referred to Sis)** now have at least basic practices in place for most of the expectations. This is a significant increase compared with the results of the 2021 supervisory assessment. However, only a small group of leading institutions have advanced practices that rely on sufficiently granular and forward-looking information to manage the risks (e.g. C&E-related data strategies that are integrated into their established data governance and quality policies).
  - Execution capabilities: Most institutions have improved their action plans to steer risk management since last year's assessment. In addition, many institutions have not always implemented their documented practices effectively. Concretely, 55% of institutions have practices in place that are not at all or only partially effectively implemented. The ECB has therefore expressed significant supervisory concern regarding the execution capabilities of these institutions.
- **Materiality assessment**. Following persistent supervisory efforts, most institutions have assessed how they could be impacted by climate change and the transition to a low-carbon economy. By contrast to 2021, this year over 90% of the institutions conducted at least a basic assessment of materiality for at least one of their main risk types. On the other hand, while institutions' views on their exposures to C&E risks is improving, they need to make further efforts to attain an acceptable degree of coverage of key portfolios, geographies and risk drivers.
- **Strategy**. Many institutions have taken steps to understand how climate-related risks might impact their business model and set out initial strategic responses, but their strategies do not yet make their business model resilient to these risks or address all risks comprehensively.
- **Governance and risk apetite** Institutions have improved their organisational structure and gained awareness of data gaps, but are still in the early stages of tackling climate-related risks in a granular, bank-wide and comprehensive manner. In fact, almost all institutions have assigned roles and responsibilities for climate-related risks to members of their management body and/or its sub-committees. On the other hand, institutions have generally bolstered their risk appetite framework by including climate-related key risk indicators (KRIs), albeit not always in a granular manner and often without specifying consequences for indicator breaches.
- **Risk management**.
  - Risk management framework:
    - Almost all institutions use at least basic quantification methods to measure climate-related risks, employing proxies and assumptions when data availability is limited.
    - Most institutions have yet to develop the granular and forward-looking quantification methods required to fully grasp the magnitude of the risks.
    - While many institutions have started to consider climate-related risks in their assessment of economic capital adequacy, in most cases this remains a qualitative assessment.
  - Risk management processes:
    - Only a quarter of institutions have put in place at least basic climate-related risk practices across all stages of the credit risk management cycle.
    - Institutions are starting to account for both physical and transition risk drivers in their operational risk management.
    - Most institutions within the scope of the market risk module have taken initial steps towards integrating climate-related risks in the investment process and portfolio monitoring.
  - Enviromental management processes:
    - While still lagging behind climate risk management, institutions are following a similar path for the management of other environmental risks and are improving their understanding of the impact of environmental risks on their risk profile and business model.

3. Next steps

-
    - by the end of **March 2023** at the latest, to have in place a sound and comprehensive materiality assessment, including robust scanning of the business environment;
    - by the **end of 2023** at the latest, to manage C&E risks with an institution-wide approach covering business strategy, governance and risk appetite, as well as risk management, including credit, operational, market and liquidity risk management;
    - by the **end of 2024** at the latest, to be fully aligned with all supervisory expectations, including having in place a sound integration of C&E risks in their stress testing framework and ICAAP.

15/12/2022
Supervisory priorities for 2023-2025

EUROPEAN CENTRAL BANK
EUROSYSTEM

1. Context

The ECB Banking Supervision, in collaboration with national competent authorities, has published its **strategic priorities for the next three years**. The three priorities identified builds on a thorough assessment of the main risks and vulnerabilities for supervised banks, considers the progress made on the priorities endorsed last year and draws on the outcome of the 2022 Supervisory Review and Evaluation Process (SREP).

2. Main points

- **Strengthening resilience to immediate macro-financial and geopolitical shocks**. The aim is to ensure that the banking sector remains resilient and that banks cope with the impact of external shocks on their activities in order to address identified vulnerabilities:
  - Shortcomings in credit risk management, including exposures to vulnerable sectors: Banks should address deficiencies in their credit risk management frameworks to identify and mitigate any build-up of risks. In this regard, the ECB will carry out a series of activities to follow up on the identified vulnerabilities:
    - **Targeted reviews** of loan origination and monitoring, assessing compliance with the related EBA guidelines.
    - **Targeted reviews** of IFRS 9 aimed at assessing compliance of selected banks with supervisory expectations laid down in the 2020 "Dear CEO" letter.
    - **On-site inspection (OSI) campaigns on IFRS 9**. Also, targeted OSIs on energy and/or commodity traders and Targeted joint on-site/internal model investigations for some material portfolios.
  - Lack of diversification of funding sources and deficiencies in funding plans: institutions will be asked to develop, execute and adjust as needed a sound and reliable liquidity and funding plan. In this regard, the ECB will conduct a targeted review of targeted longer-term refinancing operations (TLTRO III) exit strategies for selected banks.
- **Ensuring that banks address digitalisation effectively and strengthen their management bodies' steering capabilities**. Banks should address persisting deficiencies in their digital transformation strategies and governance arrangements. Doing so can help make their business models more resilient and sustainable.
  - Deficiencies in banks' digital transformation strategies. Institutions must have sound strategies and adequate arrangements in place to address the challenges arising from the changes brought about by digitalisation. In this respect, the ECB:
    - Will publish **supervisory expectations** on digital transformation strategies.
    - Will perform reviews of banks' digital transformation strategies and OSIs on digital transformation.
  - Deficiencies in operational resilience frameworks. The continuity of banking activities and services must be ensured in the face of potential disruptions. In this sense, the ECB will collect and horizontal analysis of outsourcing registers to identify interconnections among significant institutions and will perform targeted reviews and OSIs of outsourcing and cyber security management.
  - Deficiencies in management bodies' functioning and steering capabilitiesx. Banks need to strengthen the composition and oversight capabilities of their boards. The ECB Will conduct Targeted reviews of the effectiveness of banks' management bodies and will update the supervisory expectations regarding banks' governance arrangements and risk management.
  - Deficiencies in risk data aggregation and reporting. Appropriate frameworks for data aggregation and reporting are necessary. The ECB will refine and communicate to banks of supervisory expectations related to the implementation of risk data aggregation and risk reporting principles. Inspections of entities with persistent deficiencies will also be carried out.
- **Stepping up efforts to address climate change**. Institutions need to take measures and address the risks associated with climate change in an appropriate manner. In this regard, the greatest vulnerability is significant exposures to physical and transitional risk. Banks will only be able to mitigate the risks they face if they adequately consider climate-related and environmental factors in their strategies, risk management practices and decision-making processes. In this sense, the ECB will:
  - Targeted deep dives to follow up on shortcomings identified in the context of the 2022 climate risk stress test and thematic review.
  - Review of banks' compliance with new ITS reporting and Pillar 3 disclosure requirements related to climate risk, and benchmarking of banks' practices against supervisory expectations.
  - Deep dives on reputational and litigation risk associated with climate-related and environmental strategies and risk profiles for selected banks.
  - Preparatory work for reviews of banks' transition planning capabilities and readiness for ESG related mandates expected in the sixth Capital Requirements Directive (CRD VI).
  - Targeted OSIs on climate-related aspects.

04/10/2022
Work Programme 2023

1. Context

The SRB has published the **Work Programme 2023** which sets out its objectives and priorities for the year ahead. Particularly, the focus will be on achieving resolvability of SRB entities and less significant institutions, fostering a robust resolution framework, carrying out effective crisis management, operationalising the Single Resolution Fund, and targeting improvements to areas such as IT and organisational structure. The SRB is committed to making banks fully resolvable by the end of the coming year

2. Main points

The SRB priorities lie in the following five strategic areas, in line with the 2021-2023 Multi-Annual Programme (MAP):

- **Achieving resolvability of SRB Banks and Less-Significant Institutions (LSIs)**.
  - Implementation of the SRB Expectations for Banks (EfB).The SRB will continue implementing its 12-month Resolution planning cycle (RPC), in order to revise and update the resolution plans based on the banks' progress against the EfB. The EfB set the end of 2023 as the final deadline for banks to demonstrate that they **fully comply** with the expectations set for each of the seven dimensions of resolvability: i) governance; ii) bank-in execution; iii) liquidity and funding in resolution; iv) operational continuity and Financial Market Infrastructures (FMI) access; v) information systems and data requirements; vi) communication; and vii) separability and reorganization.
  - Minimum requirements for own funds and eligible liabilities. Closely monitoring the adherence of the SRB banks Bank Recovery and Resolution Directive (BRRD2) and urge the banks to have a forward-looking funding plan to prevent any breaches of MREL targets from occurring
  - Resolvability assessments. Assesing banks' progress in the resolvability conditions phased in 2022 via the heat-map tool and communicate the main results in the Resolvability Assessment of Banking Union banks for 2023.
  - Deep-dives and On-site inspections. Carrying out further deep dive missions to test the compliance of the different resolvability dimensions and consolidate the on-site inspection guidance.
- **Fostering a robust resolution framework**. The key areas for work are:
  - Development of SRB policies: i) updating MREL policy; ii) implement the key findings from the work undertaken in 2022 to operationalise the Single Point of Entry approach; iii) assess banks' capabilities for measuring and reporting on the liquidity situation; iv) extend the Public Interest Assessment (PIA) methodology by refining the SRB policy and strengthening its data- and model-driven analysis (e.g. the SRB will start analysing the impact of crypto assets and decentralised finance on the resolvability of banks).
  - Dissemination of SRB policies. The main plans are:
    - Continue with the systematic quality review of the resolution plans in close relation with the resolvability assessment and the resolvability heat-map.
    - Contributions to external policy and regulatory activity which includes the review of the Crisis management and deposit insurance (CMDI) framework and of the State aid communications for banks in crisis and the implementation of DORA.
    - Cooperation agreements and international relations with EU intituitions and agencies and international stakeholders.
- **Preparing and carrying out effective crisis management.** The SRB will among others: i) continue to perform horizontal analyses of banks' bail-in playbooks and incorporate best practices in its guidance and crisis materials, including the bail-in calculator; ii) conduct dry-run exercise testing, at least one fully-fledged simulation exercise and one technical exercise and iii) manage crisis cases, should they occur, in close coordination with all stakeholders, and using already tested protocols to ensure swift action.
- **Operationalising the Single Resolution Fund (SRF)**. The SRB will conduct one more exercise of raising *ex ante* contributions in order to meet the target established for the end of the transition period, and will continue to manage the fund investments and lay down procedures for using the available and additional funds for resolution.
- **The SRB will continue working towards a digital SRB**, implementing its 2022-2024 ICT strategy and improving the governance, organisation and management of data following the approval of its Data Management Framework.
- **Actions beyond 2023**. The SRB will conduct comprehensive testing of banks' resolvability capabilities in accordance with a multiannual testing plan, starting in 2024. This approach is in line with the EBA requirements for banks to demonstrate compliance with the EBA Guidelines on improving resolvability as they become applicable on 1 January 2024.

05/12/2022
Final Guidelines on the use of remote customer onboarding solutions

1. Context

In September 2020, the European Commission (EC) published its Digital Finance Strategy for the European Union (EU). This document sets out a strategic objective to make the benefits of digital finance available to European consumers and businesses. In this sense, one of the EC's priorities is to address the fragmentation in the Digital Single Market for financial services. To this end, the Commission asked the EBA to issue guidelines on the application of anti-money laundering and countering the financing of terrorism (AML/CFT) rules where customers are onboarded remotely. This Guidelines were published for consultation on December 2021.

In this context, the EBA has published its **final Guidelines on the use of remote customer onboarding solutions**, which set out the steps financial institutions should take to ensure safe and effective remote customer onboarding practices in line with applicable AML/CFT legislation and the EU's data protection framework.

2. Main points

- Internal policies and procedures. Financial institutions should put in place and maintain policies and procedures in situations where the customer is onboarded remotely. These policies should set out at least:
  - A general description of the solution to collect, verify, and record information throughout the remote customer onboarding process.
  - The situations where this solution can be used including a description of the category of customers, products and services.
  - The distinction between steps that are fully autonomized and those that require human intervention.
  - The controls in place to ensure that the first transaction with a newly onboarded customer is executed only once all initial customer due diligence measures have been applied.
  - A description of the induction and regular training programs to ensure staff awareness and up-to-date knowledge of the functioning of the remote customer onboarding solution.

  Institutions should set out the scope, steps and record keeping requirements of the pre-implementation assessment in their policies and procedures, which should include at least: i) an assessment of the adequacy of the solution; ii) an assessment of the impact on operational, reputational and legal risks; iii) the identification of possible mitigating measures for each risk; iv) tests to assess fraud risks; and v) testing of the functioning of the solution.
- Acquisition of information.
  - Identifying the customer. Institutions should ensure, among other, to collect:
    - All relevant data and documentation to identify and verify the legal person.
    - All relevant data and documentation to verify that the natural person acting on behalf of the legal person is legally entitled to act as such.
- Document authenticity & integrity. Where institutions accept reproductions of an original document and do not examine it, they should take steps to ascertain that the reproduction is reliable.
- Matching customer identity as part of the verification process. Where institutions use unattended remote onboarding solutions, in which the customer does not interact with an employee to perform the verification process, they should:
  - Ensure that any photograph(s) or video is taken under adequate conditions and use algorithms that allow the proper verification of the customer's identity.

  Where institutions use attended remote customer onboarding solutions in which the customer interacts with an employee to perform the verification process, they should:
  - Ensure that the employee that has sufficient knowledge of the applicable AML/CFT regulation and security aspects of remote verification and develop an interview guide defining the subsequent steps of the remote verification process as well as the actions required from the employee.
- Outsourcing. Institutions should include in their policies and procedures specifications setting out which remote customer onboarding functions and activities will be carried out or performed by the institution, by third parties or by another outsourced service provider.

3. Next steps

- The guidelines will be translated into the official EU languages and published on the EBA website.
- The deadline for competent authorities to report whether they comply with the guidelines will be two months after the publication of the translations.

14/12/2022
Risk assessment report and 2022 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 between June 2021 and June 2022 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. This year, the RAR has considered the consequences of the Russian war of aggression against Ukraine and the subsequent energy crisis. EBA warns that banks should prepare for a likely deterioration in asset quality and strengthen their screening systems and controls to ensure a strict compliance with sanctions to prevent legal and reputational risks.

Moreover, along with the RAR the EBA has published the **results of the EU-wide 2022 transparency exercise** which provides detailed information for 122 banks across 26 European Economic Area (EEA)/EU countries. The data available provides disclosure on banks' assets and liabilities, capital positions, risk exposure amounts, leverage exposures and asset quality. Liechtenstein and Norwegian banks implemented the reporting framework based on CRR2/CRD5 as of Q2 2022. To ensure comparability over time, EU/EEA aggregated figures do not include data for Liechtenstein and Norwegian banks.

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 161 banks from 30 EEA countries (131 banks at the highest EEA/EU level of consolidation from 25 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 2022.
- **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 data.
  - The EBA risk assessment questionnaire (RAQ), addressed to banks and market analysts.
  - Market intelligence on as well as microprudential qualitative information.
- **Results of the RAR**.
  - Demand for sustainable finance and Environmental, Social and Governance (ESG) products remains robust. Physical risks are increasing due to more frequent heatwaves, floods and droughts. Transition risk is also rising as further policy initiatives to reduce greenhouse gas emissions appear increasingly likely.
  - Lending growth declined in the second quarter of 2022. From June 2021 to June 2022, asset volumes increased considerably driven by loans and advances and derivatives. After Russia's invasion of Ukraine, some lending segments such as residential mortgages registered a rather subdued growth as a result of rising rates and increasing uncertainty.
  - EU/European Economic Area (EEA) banks have increased their exposures to the energy sector. Banks have been actively engaging with energy companies to provide them with a wide range of services to manage volatility in derivative energy markets. As a result, banks have significantly increased their overall exposures to the sector, both in terms of loans as well as derivatives. These exposures are concentrated with a small number of Banks.
  - Early signs of asset quality deterioration. The non-performing loan (NPL) ratio continued a downward trend and its dispersion across banks tightened significantly. However, new NPL inflows increased substantially in the first half of 2022. Banks have increased provisions for performing loans. Nonetheless, the overall cost of risk (CoR) has fallen below pre[1]pandemic lows presumably because of still substantial NPL outflows and the release or the reallocation of unused COVID-19 provisioning overlays.
  - Banks funding costs are expected to increase further. Banks must repay substantial amounts of central bank loans until 2024. A number of banks will be able to rely on existing liquidity buffers – including central bank deposits – to pay back central bank loans. Some banks however may need to issue additional debt or increase deposits.
  - Volatile markets may continue to challenge banks' ability to obtain market funding. Bank funding plans indicate that the shift in economic and monetary developments will reduce banks' liquidity coverage ratios (LCRs) and net stable funding ratios (NSFR) going forward. All banks in the sample have strong liquidity positions. Banks at the lowest end of the distribution also maintained ratios above regulatory requirements.
  - Banks continue to hold capital well above regulatory requirements - including Pillar 2 Guidance (P2G). Although it decreased during the last year, the average capital headroom was 4.65% in June 2022 versus 5.58% in June 2021. Despite this average headroom there are banks that are closer to respective requirements. Increase in risk-weighted assets (RWA) outpaced capital generation and led to a 60 basis points (bps) decline in the average Common Equity Tier 1 (CET1) ratio to 15.2%. On the leverage ratio, most banks in the sample have a buffer of more than 200 bps above the minimum requirement. However, 6% of the banks are within 100 bps above the minimum requirement.

- Russia's invasion of Ukraine has increased operational risk. The increasing reliance of banks on digital solutions towards customers also affects the number and impact of information and communication technology (ICT)-related incidents. The significant number of EU- as well as international sanctions in response to the Russia's invasion of Ukraine increases the risk of implementation errors and circumvention risk. In addition, EU banks face substantial costs as they retreat from their Russian operations.
- It remains uncertain how bank profitability will evolve. Strong lending growth and higher net interest margins (NIM) helped increase banks' return on equity (RoE) year on year (YoY). The expected macroeconomic deterioration will likely result in slower lending growth and rising impairments, and higher inflation may increase operating costs. Lower GDP growth and rising rates could also result in lower fee income from asset management and payment services. Finally, banks that are more reliant on wholesale funding may face more rapid increases in funding costs.

Overview of key figures:

Figures / Reference date	CET1 ratio (transitional)	CET1 ratio (fully loaded)	Liquidity coverage ratio	NPL ratio	Share of Stage 2 loans	RoE	Leverage ratio (fully phased-in)
June 2022	15.2%	15%	165.1%	1.8%	14%	7.8%	5.3%
June 2021	15.8%	15.5%	174.50%	2.3%	8.8%	7.4%	5.7%

15/12/2022
Roadmap on sustainable finance

1. Context

In light of transition-related financing needs, a sound framework for sustainable banking products is necessary, while the cross-cutting nature of ESG risks raises a need for a holistic approach which entails enhancing the measurement, management, disclosure, and monitoring of ESG risks as well as effective supervision of institutions. In 2019, the EBA published its first action plan on sustainable finance which explained EBA's approach and timeline for delivering mandates related to ESG factors.

In this context, the EBA has published **its Roadmap on sustainable finance** which outlines the EBA's workplan on sustainable finance and ESG risks. It supersedes the EBA´s first action plan, adding new areas of focus, including aspects related to labeling of sustainable products, greenwashing, as well as supervisory reporting and enhanced risk monitoring framework. To this end, this roadmap creates a continuity from the first action plan and at the same time builds on the latter to reflect the mandates and tasks that the EBA will fulfill in the next three years.

2. Main points

The EBA's activities on ESG risks and sustainable finance can be classified under the following main areas:

- **Transparency and disclosures**. The EBA will follow the sequence reflected in the received mandates, which can be summarised as:
  - Pilar 3 disclosures. The EBA will continue to develop the disclosure templates on ESG risks regarding: i) the expansion of the scope of quantitative disclosures beyond climate risk mitigation and adaptation, including disclosure metrics on other ESG risks; and ii) potential expansion of the scope of disclosure requirements to a larger universe of banks, should according to the mandate of the CRR III proposal.
  - Sustainable Finance Disclosure Regulation (SFDR). ESAs work on amendments to SFDR Delegated Regulation to review the indicators for principal adverse impact and the financial product disclosures is planned to be finalised in 2023. Going forward, the ESAs will continue providing clarifications on the application of SFDR disclosures as necessary.
  - Work related to the EU Taxonomy. The EBA will continue its technical support to the EC to: i) ensure a common, uniform and consistent application of entity-level disclosures under Article 8 of the Taxonomy Regulation (TR); ii) extend the KPIs defined in the Commission Delegated Regulation to the remaining environmental objectives of the TR.
  - Securitisation-related disclosures. The ESAs are currently finalising the RTS mandated under the EU Securitisation Regulation which will standardise the information an originator of an simple, transparent and standardised securitisations (STS) may choose to disclose about the adverse impacts of the assets financed by the securitised exposures on the climate and other sustainability factors. This work should be finalised at the beginning of 2023 at the latest.
- **Risk management and supervision (including transition plans)**.
  - Forthcoming work by the EBA in this area will provide more guidance to institutions and supervisors, in particular through Guidelines for institutions on the management of ESG risks and further revision of the Guidelines on SREP Expectations on disclosure.
  - The EBA is undertaking preparatory work to deliver the new mandate contained in the proposal of CRD VI, regarding the elaboration of further guidance to institutions to ensure robust and harmonised practices in the assessment and management of ESG risks, including through stress testing and transition plans. Furthermore, based on the final text of the revised CRD, an update to the EBA Guidelines on internal governance and to the Guidelines on remuneration policies may be undertaken to elaborate on aspects related to ESG risks.
  - The EBA plans to include more granular requirements on the treatment of ESG risks in the SREP in a further review of the SREP guidelines, according to the mandates contained in the CRR III/CRD VI proposal.
- **Prudential treatment of exposures**. The EBA will publish a final report which will pursue the analysis set out in the Discussion paper on the role of environmental risks in the prudential framework and explore, for those elements of the framework which are most likely to be affected by environmental risk drivers, how these risk drivers can be best captured through either existing mechanisms or through enhancements or clarifications within the framework.
- **Stress-testing**. The EBA, along with other ESAs and the ECB, has started preparation for a one-off joint climate stress test across the EU financial sector. This joint exercise should assess vulnerabilities in the financial system, including through interlinkages between different sectors within the financial system and how these vulnerabilities relate to the transition to the 2030 goals. Additionally, the EBA is planning to review its Guidelines on institutions' stress testing and to develop, with the other ESAs, joint guidelines for supervisory ESG stress testing, starting with climate risk.
- **Standards and labels**. The EBA is willing to support regulators in order to adjust the upcoming EU Green Bond Standard Regulation so that it is applicable to securitisations. On the other hand, the EBA will deliver its advice on the definition and possible supporting tools for green retail loans and green mortgages by December 2023.

- **Greenwashing**. The EBA will provide insights into an understanding of the greenwashing phenomenon and identify the specific forms and dimensions it can take in the context of banking activities. A final report on this matter is planned for May 2024. Based on the inputs, EC will consider amendments to the EU single rulebook, if needed.
- **Supervisory reporting**. The EBA will develop the uniform reporting formats and templates regarding the reporting of ESG risk exposure contained in the banking package. These will be built on the Pillar 3 ITS on ESG risks disclosure. EBA plans to commence the work in 2023.
- **ESG risks and sustainable finance monitoring framework**. The EBA has started preparatory work to put in place a monitoring system to assess material ESG risks and monitor developments of sustainable finance. The monitoring framework will start as an internal monitoring tool, however going forward it may be used to develop a more standardised, public data and information tool. Furthermore, the EBA will contribute to the EC`s systemic monitoring of climate-related financial stability risk.

20/12/2022
CP on Guidelines on the overall recovery capacity in recovery planning

1. Context

Overall Recovery Capacity (ORC) is a key outcome of recovery planning providing an indication of the overall capability of the institution to restore its financial position following a significant deterioration of its financial situation. In order to ensure that ORC effectively fulfils its role as a summary of institutions' recoverability, it needs to be properly determined and consistently represented by institutions. In the absence of a specific framework and specific guidance on the relevant steps underlying the ORC determination, institutions have developed a wide range of different practices, being therefore necessary a harmonised approach to the determination and assessment of ORC.

In this context, the EBA has published the consultation paper on draft guidelines on ORC in recovery planning which aim to set up a consistent framework for the determination of the ORC by institutions in their recovery plans and the respective assessment by competent authorities.

2. Main points

- Framework of ORC for institutions.
  - ORC basic components. Institutions, for determining the ORC, should define:
    - A list of credible and feasible recovery options. Each one of them considered independently from the others and without any reference to the recovery plan's specific scenarios. From this list, institutions should select all the recovery options that could be used under each specific scenario showing their scenario-specific recovery capacity.
    - Range of scenarios of severe macroeconomic and financial stress. Institutions should calculate their recovery capacity specific for the relevant scenarios envisaged in the recovery plan.
  - Calculating scenario-specific recovery capacity. Institutions should consider as starting point for the calculation of the scenario-specific recovery capacity the breach of any recovery plan indicator that, according to the recovery plan, would result in a decision by the institution to implement one or more recovery options.
  - Determining the ORC:
    - Selection of recovery options. To calculate the 'scenario-specific recovery capacity', institutions should select all the options that would be available and appropriate under that specific scenario.
    - Adjustment of recovery options: additional constraining factors. When selecting recovery options appropriate to a specific scenario, institutions should take into account the following additional constraining factors related to the simultaneous or sequential implementation of recovery options: i) mutual exclusivity; ii) interdependencies; iii) operational capability to implement a multitude of recovery options simultaneously; iv) increased reputational effects; v) consequences to their business model or profitability.
    - Calculation of scenario-specific recovery capacity. Institutions should employ a dynamic balance sheet approach.
    - Determination of the ORC range. Institutions should consider the highest and lowest scenario specific recovery capacity respectively in terms of capital and liquidity using the relevant scenarios for each of these dimensions.
- Competent authorities' assessment of ORC. Competent authorities should ensure, that, in determining their ORC, institutions comply with these guidelines.
  - To assess the scenario-specific recovery capacity provided by the institutions under each severe macroeconomic and financial stress, competent authorities should review the overall adequacy of the scenarios put forward by the institutions.
  - Competent authorities should ensure that the ORC is calculated by the institutions as the range between the lowest and the highest scenario-specific recovery capacity both in terms of capital and liquidity and should assess the ORC assigning the following levels: i) satisfactory; ii) adequate with potential room for improvement; and iii) weak.

3. Next steps

- Comments to this consultation document can be sent before **14 March 2023**

European Insurance and Occupational Pensions Authority

11/10/2022

Warning aimed at insurers and banks acting as insurance distributors to ensure that CPI products offer fair value to consumers

1. Context

The European Insurance and Occupational Pensions Authority (EIOPA) with the support of National Competent Authorities (NCAs) have conducted a thematic review, looking at the functioning of the EU market for credit protection insurance (CPI) products sold via banks. These review key issues that can negatively impact consumer outcomes.

In this context, and following the thematic review, the EIOPA has issued a **warning aimed at insurers and banks acting as insurance distributors to ensure that CPI products offer fair value to consumers**. Furthermore, the EIOPA expects all insurers and banks acting as insurance distributors to fully comply with the Insurance Distribution Directive (IDD), including the product oversight and governance (POG) requirements.

2. Main points

- **EIOPA's expectations**. It is expected that insurers and banks to put customers' interests at the heart of their business model and take relevant measures to prevent the occurrence of consumer detriment. Should this occur, all insurers and banks concerned should take remedial actions to improve consumer outcomes by mitigating the situation and preventing further occurrences of the detrimental event. EIOPA considers that action should be taken in the following areas:
  - Manufacturing of CPI products. Manufacturers of CPI products should ensure, among others, that:
    - Their products are designed to meet the **needs of the identified target market**, meaning offering fair value and ensuring fairness in pricing practices. In order to do so, their product approval process should be designed in a way that is proportional to the complexity and the risks related to the relevant business model, the CPI product and the target market.
    - **Make use of the available data** (such as complaints, rejected claims and other) and conduct relevant analysis to ensure proper product monitoring, including whether the product offers value to the target market.
    - Monitor that the banks acting as insurance intermediaries act in accordance with the objectives of their **product approval process** and that sales schemes, in place at the bank level are not detrimental to consumers.
  - Distribution arrangements of CPI. Insurers and banks are expected to assess and review their distribution and remuneration arrangements to ensure that they always act honestly, fairly and professionally in accordance with the best interests of their customers. It is also expected that product distribution arrangements to take into account the level of complexity and the risks related to the products, as well as the nature, scale and complexity of the business of the distributor (bank).

3. Next steps

- EIOPA and NCA will prioritise monitoring the European CPI market and when needed, exercise their supervisory powers including via on-site inspections and other investigatory methods. In the event of a breach appropriate sanctions and administrative measures may be applied.

11/10/2022
Single Programming Document 2022-2024

1. Context

The **EIOPA Strategy for the period 2023-2026** sets out EIOPA's plans for the coming years, which have been designed taking into account the current geopolitical and economic context. This includes the Russia's unprovoked invasion of Ukraine coupled with lingering effects of the pandemic, market volatility and inflation. Additionally, the EIOPA has published its **Single Programming Document**, including the **Annual Work Programme for 2023.** This document sets out the key activities planned for 2023.

2. Main points

- EIOPA has identified six **strategic priorities.** For each objective some **regulatory provisions**
    - Address sustainability related challenges, contributing to building up sustainable insurance and pensions, including by addressing protection gaps, for the benefit of citizens and businesses.
        - Update the regulatory technical standards (RTS) to clarify **environmental and social indicators.**
    - Supporting the market and supervisory community through digital transformation, helping the supervisory community and industry to mitigate the risks and seize the opportunities of the digital changes, including by further promoting a data-driven culture.
        - Deliver the Regulatory and Implementing Technical Standards (ITS) from **DORA.**
        - Developing a sound regime for the use of **artificial intelligence (AI)** by the insurance sector.
    - Strengthen supervisory convergence, promoting sound, efficient and consistent prudential and conduct supervision throughout Europe, particularly in view of increased cross-border business. Through digital literacy initiatives and work, EIOPA will also strive to promote accessibility.
    - Ensuring technically sound prudential and conduct of business policy, delivering high-quality advice and other policy work taking into account changing and growing needs of society as well as the effects of new horizontal regulation. EIOPA aims to create an ecosystem that supports financial resilience and enhances the financial health of consumers, taking into account diversity and inclusion considerations.
        - Delivering advice in relation to the review of the **IORP II Directive**.
    - Further enhance financial stability, with particular focus on the analysis of financial sector risks, vulnerabilities, and emerging threats. EIOPA aims at further building up its reputation for sound evidence-based analysis, which takes into account sustainability considerations, including through stress tests exercises. Improved modelling, also based on Artificial Intelligence techniques, and increased use of predictive approaches, such as early warning models, shall contribute to enhancing the quality of the analysis, thereby also better accounting for country specificities.
        - Initiating one-off coordinated **climate change stress test**.
    - Ensuring good internal governance, being a model EU Authority with high professional standards and cost-effective governance. EIOPA aims to further strengthen its organisational capabilities, in particular through the use of technology to facilitate collaboration, increase efficiency and security and drive long-term performance in a post pandemic working environment.

02/11/2022

Methodology for assessing value for money in the unit-linked market

1. Context

Following the publication of the Supervisory Statement on Value for Money in November 2021, EIOPA has worked on a methodology to ensure a consistent and convergent approach towards the implementation of said Supervisory Statement.

In this context, the EIOPA has published the **Methodology for assessing value for money in the unit-linked market**, which outlines a common European approach on how to identify unit-linked products which may offer poor or no value for money and require a close monitoring by national competent authorities (NCAs) to ensure risks are sufficiently identified, monitored and mitigated. The methodology also offers more clarity to insurance manufacturers and distributors on the supervisory approach to addressing value for money risks when supervising product oversight and governance (POG) requirements.

2. Main points

The approach is divided into three layers:

- **Layer I: Market wide assessment** through which NCAs would identify products requiring higher scrutiny:
  - The products in scope of the analysis should be currently commercialised ones to make sure the analysis is representative of the current market environment.
  - The methodology assess undertakings or products (depending on the tool used) to monitor the trade-off between costs and returns. Moreover additional extrinsic factors may matter when assessing product value for money (e.g. inflation)
  - Regarding costs it should need to be determined whether the specific product includes costs for the product's distribution or whether such costs – according to the undertaking's distribution strategy – are borne separately by the customer and paid directly to the intermediary. This should be taken into account when assessing value for money.
  - The different tools presented are based on: i) PRIIPs KID data; ii) product national reporting; iii) Solvency II retail risk indicators; and iv) quality of funds underlying unit-linked products. These are indicative and should be adapted by NCAs.
  - The products or undertakings (depending on the tool used) to be shortlisted for enhanced monitoring (Layer II) are the outliers (both in terms of low performance and high costs) according to the different metric corresponding to one (or a combination) of tools used. Outliers may be identified using relative thresholds, i.e. relative to the figures observed in the market, or on the basis of fixed thresholds.
- **Layer II: Enhanced supervision** through which NCAs would assess different indicators and determine whether products offer value or not:
  - Indicators to test independently the Value for Money would focus on both the "surrender scenario" and the "biometric risk scenario" as two independent events.
  - The assessment should be carried out at individual product level, specifically testing product profitability and not undertakings' lines of business.
  - The different tools presented are based on:
    - **Product Profitability Testing**. This exercise will allow to gain a full picture of the impact of costs and, depending on the target market, other factors like inflation, versus the performance following a consumer perspective. The product profitability testing should also verify whether the investment strategy and general functioning of the product lead to satisfactory performance.
    - **Enhanced PRIIPs KID analysis**. Alternatively to the Product Profitability Testing, some other indicators provided in the PRIIPs KID might be used and jointly interpreted to perform an enhanced supervision.
- **Layer III: Assessment of POG documents**. The final step of the methodology envisages to interpret the set of information gathered in the previous layers in light of the POG process followed by the manufacturers.
  - For those products which, based on Layer II, may offer value for money despite having high costs and / or having certain features which may not be simple / easy for any target market to understand, supervisors should assess whether the cost are due and the services and / or the product features to which the costs relate too are aligned with the needs, objectives and characteristics of the target market.
  - The POG Process relays on the following steps:
    - **Manufacturers' systems and controls** to ensure customer centric business models, ensuring product meets needs of the identified target market and mitigate consumer detriment.
    - **The definition of product's target market**, namely the identification of a group of customers, with similar characteristics, for whom the product is compatible.
    - **The product testing**, to assess if the products meet the identified target market's needs, objective and characteristics, over the lifetime of the product.

- **The assessment of the appropriateness of the distribution strategy**, to ensure manufacturer have appropriate processes and controls that determine the processes criteria and steps to be followed for the development of distribution strategies.
- **Product monitoring and review**, to ensure that insurance products remain consistent with the needs, characteristics and objectives of the target market.

After the finalisation of the three layers analysis, it is expected that a conclusive decision on whether products offer value for money to their identified target market would be reached. Finally, it is important to note that this approach, in particular Layer III, is not meant to replace manufacturers' assessment of value for money. It rather aims at determining whether manufacturers have sufficiently and adequately tested that their products offer value to a given target market.

3. Next steps

- This work is not yet finalised and the document should be read as a work in progress, to which further improvements will be made and the content refined after the NCAs start to apply it in practice.

16/12/2022
Results of the climate stress test for the European occupational pension sector

1. Context

In 2019, EIOPA carried out a stress test which for the first time covered an analysis of Institutions for occupational retirement provision (IORP's) integration of Environmental, Social and Governance (ESG) factors. However, only 30% of them had processes in place to manage ESG risks and only 19% of them assessed the impact of ESG factors on investments' risk and returns. While this stress test already included an assessment of ESG exposures, focusing on qualitative aspects, it did not assess quantitatively the effects of an adverse climate change scenario. As a result, in April 2022 the EIOPA launched its first climate stress test to gain insights into the effects of environmental risks on the European occupational pension sector.

In this context, the EIOPA has released the **Results of the climate stress test for the European occupational pension sector**. Unlike traditional stress tests that typically examine the impact of low-probability shocks, the scenario for this exercise simulated a sudden, disorderly transition to a green economy that results from the delayed implementation of climate policy measures. The results show that IORPs are materially exposed to transition risks.

1. Main points

- **Objectives**. The 2022 IORP stress test has two main objectives:
  - Assessing IORPs' exposures to environmental risks, by estimating the impact of an adverse environmental scenario on the value of IORP's investments.
  - Assessing the effects of a rise in inflation on retirement income, by carrying out a qualitative analysis to assess the dependencies between inflation, loss of purchasing powers and mandatory or automatic (or discretionary) mitigating adaptation mechanisms.
- **Scope**. 187 IORPs from 18 countries covering all European Economic Area (EEA) countries with significant IORP sectors. On aggregate, more than 65% of assets in defined benefit (DB) schemes and defined contribution (DC) schemes were analysed.
- **Approach.** The exercise followed a dual methodology: in addition to a national balance sheet (NBS) approach based on national valuation regulation, a common balance sheet (CBS) approach with mark-to-market valuations was used to make meaningful comparisons possible.
- **Quantitative results scenario (CBS approach vs NBS approach)**
  - Assets in baseline scenario: The aggregate value of assets of the participating IORPs at the end of 2021 amounted to EUR 1,985 bn according to the CBS. Of this, 88% is attributed to DB schemes and 12% to DC schemes. Under the NBS, the aggregate value of was equal to EUR 1,922 bn.
  - Assets in adverse market scenario: On the CBS the adverse scenario leads to a fall of 12.9% in the value of the assets, in absolute terms of approximately EUR 255 billion euro. Equity and bonds investments are the main drivers of the drop in the value of assets in the scenario. The bulk of the drop in value showed up in equity and bond investments. IORPs on average had around 6% of their equity and 10% of their corporate bond investments in carbon intensive industries such as mining, electricity & gas and land transport, for which the scenario prescribed steep write-downs of between 20% and 38%. According to the NBS scenario the impact is less sever (-12.2%). Equity is one of the main drivers for the drop in the value of the asset, followed by bonds and other investment funds.
  - Liabilities and funding ratio. A drop in liabilities due to rising risk-free rates helped cushion the impact of asset-side losses on IORPs' funding ratio, but it did not fully offset it. Financial positions therefore still worsened slightly (-2.9 percentage points) while according to the NBS decreased -2.5. According to the CBS, post-shock aggregate funding ratios in DB schemes remained above 100% in most Member States – due, in part, to strong pre-shock positions.

- **ESG exposures and sustainability investment policy**. The stress test was complemented by a qualitative survey on mitigation and adaptation measures, which revealed that more than 90% of IORPs consider ESG factors when determining their investment policy. Nonetheless, IORPs still experience hurdles in allocating investments to climate risk-sensitive categories. In particular, investment funds are identified by almost half of the participating IORPs (44%) as an asset category where look through is not always possible to be applied with the required level of granularity, and hence, identifying the business categories. On the other hand, only 14% of IORPs reported using environmental stress testing in their own risk management. Importantly, results indicate that this subgroup performed better in the exercise than their peers that do not conduct such analyses, suggesting that own climate stress testing helps IORPs position themselves better against transition risks.
- **ESG and sustainability disclosure**. In general, the IORPs view the SFDR as helpful for their ESG policies, however, some IORPs note that the SFDR and taxonomy disclosures can be an extra administrative burden. 89% of the IORPs inform stakeholders about the way in which ESG factors are taken into account in their investment policies, which is a significant increase from the previous stress test (65%).
- **ESG and sustainability risk management**. 64% of participating IORPs reported to have documented processes to identify, asses, monitor and/or manage ESG and sustainability risks. This is a massive increase from the previous IORP stress test (36%). Likewise, about 40% report to have identified assets that are prone to E, S and G risks, compared to 30% in 2021 and 48% (35% in 2021) perform a risk assessment of one or more of the following risks: physical risks; legal risks; governance risks; transition risks; and technology risks.
- **Assessing the effects of a rise in inflation**. A majority of IORPs providing DB schemes provide schemes where benefits are directly linked to inflation. However, the difference between IORPs operating DB and DC schemes is significant: for 55% of participating IORPs offering DB schemes, benefits of all or some DB schemes are directly linked to inflation whereas for only 15% of participating IORPs offering DC schemes the benefits provided in those DC schemes (all or some) are directly linked to inflation.

Impact of climate change scenarios

Scenarios / Assets	Pre-stress	Post-stress	Impact
Total assets - CBS	1.985 trillion	1.730 trillion	-12,9%
Funding ratio* - CBS	119,9 %	117.0%	-2.9 p.p.
Funding ratio* - NBS	112.7%	120.2%	-2.5 p.p.

*defined benefit schemes

European Insurance and Occupational Pensions Authority

20/12/2022

Updated representative portfolios to calculate volatility adjustments to the Solvency II risk-free interest rate term structures for 2023 and the RFR Technical Documentation

1. Context

The EIOPA has published the **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** which are based on the end-of-2021 annual reporting templates as reported by European (re)insurance companies to their national supervisory authorities. The updated portfolios enable more accurate reflection of the impact of market volatility under the Solvency II framework. The changes are performed over the last published version that was in September 2022.

2. Main points

- **Changes stemming from the deep, liquid and transparent financial markets (DLT Assessment) 2022** are typos or errata changes.
- **Changes stemming from the update of the representative portfolios for 2023**.
  - It has been updated the Table 11 on weights referred to in Article 50 on calculation of the spread underlying the volatility adjustment of Solvency II. The currency and country weights has been changed and are now based on end of 2022 annual reporting templates and 2021 annual reporting.
  - **It has been updated the annex F.15 of historical overview of the government bond- and corporate bond-weights used for the representative portfolios**. The history of currency and country weights has been updated.

3. Next steps

- The typo changes will become effective as **1 January 2023**.
- Changes from the update of representative portfolios will become effective as **31 March 2023**.

14/10/2022
2023 Annual Work Programme

1. Context

The ESMA has published its Strategy for 2023-2028 which details its long-term priorities and objectives . It has been developed against the backdrop of a challenging economic and political environment including the after-effects of COVID, the war in Ukraine, and mounting inflation. Along with this document the ESMA has released its **2023 Annual Work Programme** (AWP), which is the first work programme developed under the ESMA Strategy for 2023-2028 and will see ESMA delivering amongst others on the priorities set out in the sustainable finance roadmap, adapting to digitalisation in financial markets and enhancing the access to and quality of supervisory data.

1. Main points

The key deliverables for 2023 is presented in accordance to two thematic drivers and ESMA´s activities:

- Regulation (SFDR) and work to better understand and fight against greenwashing.
- **Facilitating technological innovation and effective use of data**. Develop technical standards and guidelines in order to help the market prepare for the implementation of key new regulations in the area of digital finance: the Digital Operational Resilience Act (DORA), the Regulation on Markets in Crypto-Assets (MiCA) and the DLT Pilot Regime.
- **Investors and issuers**. Continue to report on the impact of costs and charges for retail investors and coordinate new workstreams on mystery shopping. On the other hand, coordinate a Common Supervisory Action (CSA) in the area of sustainability, covering the risk of greenwashing in the fast-growing area of sustainable investment products. ESMA also expects to be mandated to support the regulatory framework for sustainable finance, under the Corporate Sustainable Reporting Directive, the proposed regulation for EU Green Bonds and the SFDR.
- **Markets and infrastructures**. Develop technical standards on authorisation and registration of benchmark providers, as well as deliver the final technical standards and guidelines mandated under the CCP Recovery and Resolution Regulation.
- **Risk assessment**. Continue to monitor market developments to assess risks, in particular the impact of commodity market developments, financial market impacts of inflation and rising interest rates.
- **Supervision and convergence**. Continue risk-based supervision of all EU Credit Rating Agencies (CRAs), Securitisation Repositories (SRs), Trade Repositories (TRs) as well as certain Data reporting services providers (DRSPs), benchmark administrators and third-country CCPs, and work with national authorities to promote supervisory convergence and a common understanding of where major risks lie. Prepare for the supervision of Consolidated Tape Providers (CTPs), subject to ongoing legislative proceedings on MiFIR review and for the oversight of critical ICT third-party providers (CTPPs) with the other ESAs.

25/11/2022
Work Programme 2023

1. Context

The SRB has published the **Work Programme 2023** which sets out its objectives and priorities for the year ahead. Particularly, the focus will be on achieving resolvability of SRB entities and less significant institutions, fostering a robust resolution framework, carrying out effective crisis management, operationalising the Single Resolution Fund, and targeting improvements to areas such as IT and organisational structure. The SRB is committed to making banks fully resolvable by the end of the coming year.

2. Main points

The SRB priorities lie in the following five strategic areas, in line with the 2021-2023 Multi-Annual Programme (MAP):

- **Achieving resolvability of SRB Banks and Less-Significant Institutions (LSIs)**.
  - Implementation of the SRB Expectations for Banks (EfB).The SRB will continue implementing its 12-month Resolution planning cycle (RPC), in order to revise and update the resolution plans based on the banks' progress against the EfB. The EfB set the end of 2023 as the final deadline for banks to demonstrate that they **fully comply** with the expectations set for each of the seven dimensions of resolvability: i) governance; ii) bank-in execution; iii) liquidity and funding in resolution; iv) operational continuity and Financial Market Infrastructures (FMI) access; v) information systems and data requirements; vi) communication; and vii) separability and reorganization.
  - Minimum requirements for own funds and eligible liabilities. Closely monitoring the adherence of the SRB banks Bank Recovery and Resolution Directive (BRRD2) and urge the banks to have a forward-looking funding plan to prevent any breaches of MREL targets from occurring
  - Resolvability assessments. Assesing banks' progress in the resolvability conditions phased in 2022 via the heat-map tool and communicate the main results in the Resolvability Assessment of Banking Union banks for 2023.
  - Deep-dives and On-site inspections. Carrying out further deep dive missions to test the compliance of the different resolvability dimensions and consolidate the on-site inspection guidance.
- **Fostering a robust resolution framework**. The key areas for work are:
  - Development of SRB policies: i) updating MREL policy; ii) implement the key findings from the work undertaken in 2022 to operationalise the Single Point of Entry approach; iii) assess banks' capabilities for measuring and reporting on the liquidity situation; iv) extend the Public Interest Assessment (PIA) methodology by refining the SRB policy and strengthening its data- and model-driven analysis (e.g. the SRB will start analysing the impact of crypto assets and decentralised finance on the resolvability of banks).
  - Dissemination of SRB policies. The main plans are:
    - Continue with the systematic quality review of the resolution plans in close relation with the resolvability assessment and the resolvability heat-map.
    - Contributions to external policy and regulatory activity which includes the review of the Crisis management and deposit insurance (CMDI) framework and of the State aid communications for banks in crisis and the implementation of DORA.
- Cooperation agreements and international relations with EU intituitions and agencies and international stakeholders.
- **Preparing and carrying out effective crisis management.** The SRB will among others: i) continue to perform horizontal analyses of banks' bail-in playbooks and incorporate best practices in its guidance and crisis materials, including the bail-in calculator; ii) conduct dry-run exercise testing, at least one fully-fledged simulation exercise and one technical exercise and iii) manage crisis cases, should they occur, in close coordination with all stakeholders, and using already tested protocols to ensure swift action.
- **Operationalising the Single Resolution Fund (SRF)**. The SRB will conduct one more exercise of raising *ex ante* contributions in order to meet the target established for the end of the transition period, and will continue to manage the fund investments and lay down procedures for using the available and additional funds for resolution.
- **The SRB will continue working towards a digital SRB**, implementing its 2022-2024 ICT strategy and improving the governance, organisation and management of data following the approval of its Data Management Framework.
- **Actions beyond 2023**. The SRB will conduct comprehensive testing of banks' resolvability capabilities in accordance with a multiannual testing plan, starting in 2024. This approach is in line with the EBA requirements for banks to demonstrate compliance with the EBA Guidelines on improving resolvability as they become applicable on 1 January 2024.

04/11/2022
Digital Markets Act (DMA)

1. Context

The European Commission (EC), European Union (EU) Member States and many other jurisdictions have engaged in recent years to understand the effects that digitalisation and online platforms have on fundamental rights, competition, and, more generally, on societies and economies. Since the adoption of e-Commerce Directive, the landscape of digital services has changed, new information society services have emerged leading to a transformation on how EU citizens communicate and do business. Furthermore, Digital Services have contributed to the internal market by opening new business opportunities and facilitating cross-border trading. In this respect, the EC proposed in December 2020 the Digital Services Act and Digital Markets Act.

In this context, the EP and Council have approved the **Digital Markets Act** with the aim of contributing to the proper functioning of the internal market by laying down harmonised rules ensuring for all businesses, contestable and fair markets in the digital sector across the Union where gatekeepers are present, to the benefit of business users and end users.

2. Main points

- **Scope of application**. It shall apply to core platform services provided or offered by gatekeepers to business users established in the EU or end users established or located in the EU, irrespective of the place of establishment or residence of the gatekeepers.
- **Designation of gatekeepers**. It establishes the conditions under which undertakings should be designated as gatekeepers: This is:
  - <u>When it has a significant impact on the internal market</u>. This requirement has been modified with the adoption of the final regulation, to require a turnover of more than EUR 7,5 billion, whereas the previous requirement was EUR 6,5 billion.
  - <u>When it provides a core platform service</u> which is an important gateway for business users to reach end users.
  - <u>When it enjoys an entrenched and durable position</u>, in its operations, or it is foreseeable that it will enjoy such a position in the near future.

  The status of a gatekeeper will be reviewed by the EC on a regular basis. Following the adoption of the final Regulation, the review is changed from at least every 2 years to 3 years.
- **Obligations of gatekeepers**. A number of obligations must be fulfilled, including, among others, the following:
  - <u>Allow business users to communicate and promote offers</u> and to conclude contracts with end users, regardless of whether, for that purpose, they use the core platform services of the gatekeeper.
  - <u>Allow end users to access and use</u>, through its core platform services, content, subscriptions, features or other items.
  - <u>Other obligations</u>, which have been extended as a novelty with respect to the draft regulation and which consist of not doing: i) process personal data of end users using services of third parties that make use of core platform services of the gatekeeper; ii) combine personal data from relevant core platform services with personal data from other services; iii) cross-use personal data from the relevant core platform service in other services provided separately by the gatekeeper, including other core platform services, and vice versa.

  New from the draft, within 6 months of the appointment of a gatekeeper as such, the gatekeeper must submit a report to the EC detailing the measures to comply with these obligations.
- **Investigative, enforcement and monitoring powers**. It determines the rules related to different instruments that can be used by the EC in the context of market investigations. As novelty compared to the draft, daily periodic penalty payments are introduced which may be imposed by the EC and which must not exceed 5% of the average daily worldwide turnover in the preceding financial year per day. These fines can be set to compel gatekeepers to submit to an inspection, to provide correct information or to comply with certain decisions of the EC.

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 shall apply generally from **2 May 2023**.

04/11/2022
Digital Services Act (DSA)

1. Context

Since the adoption of e-Commerce Directive in 2020, the landscape of digital services has changed, new information society services have emerged leading to a transformation on how EU citizens communicate and do business. Furthermore, Digital Services have contributed to the internal market by opening new business opportunities and facilitating cross-border trading. In this respect, the EC proposed a set of new rules applicable to platforms providing digital services in 2021.

In this context, the EP and Council have published **the Digital Services Act (DSA)** which harmonises the rules applicable to intermediary services in the internal market with the objective of ensuring a safe, predictable and trusted online environment, addressing the dissemination of illegal content online and the societal risks that the dissemination of disinformation or other content may generate, and within which fundamental rights enshrined in the Charter are effectively protected and innovation is facilitated.

2. Main points

The new regulatory framework of digital services will rebalance the rights and responsibilities of users, intermediary platforms, and public authorities.

- **Provisions applicable to all providers of intermediary services**. It lays down the following obligations: i) to establish a single point of contact to facilitate direct communication with Member States' authorities; ii) to designate a legal representative in the EU for providers not established in any Member State, but offering their services in the EU; iii) to set out in their terms and conditions any restrictions that they may impose on the use of their services; and iv) transparency reporting obligations in relation to the disabling of information considered to be illegal content to the providers' terms and conditions.
- **Additional provisions applicable to providers of hosting services, including online platforms**. Providers of hosting services shall put mechanisms in place to allow any individual or entity to notify them of the presence on their service of specific items of information that the individual or entity considers to be illegal content. As a novelty with regard to the draft, provisions regarded to the notification of suspicions of criminal offences are added. This mean, where a provider of hosting services becomes aware of any information giving rise to a suspicion that a criminal offence involving a threat to the life or safety of a person has taken place, is taking place or is likely to take place, it shall promptly inform the law enforcement or judicial authorities of the Member State concerned.
  - <u>It lays down the obligation for online platforms</u> to provide an internal complaint-handling system in respect of decisions taken in relation to alleged illegal information incompatible with their terms and conditions.
  - As a novelty compared to the draft, <u>there are added obligations regarding online interface design and organization</u>. In this sense, providers of online platforms shall not design, organise or operate their online interfaces in a way that deceives or manipulates the recipients of their service or in a way that otherwise materially distorts or impairs the ability of the recipients of their service to make free and informed decisions.
- As a novelty to the draft, **additional provisions applicable to providers of online platforms allowing consumers to conclude distance contracts with traders**. Providers of online platforms allowing consumers to conclude distance contracts with traders shall ensure that its ronline interface is designed and organised in a way that it allows traders to provide at least the following: i) the information necessary for the clear and unambiguous identification of the products or the services promoted or offered to consumers; ii) any sign identifying the trader such as the trademark, symbol or logo; and iii) the information concerning the labelling and marking.
- **Additional obligations for very large online platforms to manage systemic risks**. Very large online platforms are obliged to conduct risk assessments on the systemic risks brought about by or relating to the functioning and use of their services and to take reasonable and effective measures aimed at mitigating those risks. They are also to submit themselves to external and independent audits.
- **Implementation, sanctions and enforcement**. The EC proposes to create a Digital Services Coordinators, which are the competent authorities for the consistent application of this Regulation.

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.
- This Regulation shall apply from **17 February 2024** with the exception of certain rules which shall apply from **16 November 2022**:
  - Transparency reporting obligations for providers of intermediary services.
  - Very large online platforms and very large online search engines.
  - Independent audit.
  - Data access and scrutiny.
  - Supervisory fee.

05/12/2022
Corporate Sustainability Reporting Directive (CSRD)

1. Context

In 2019 the Non-Financial Reporting Directive (NFRD) was adopted in order to include information in the non-financial reporting statements on how, and to what extent, their activities are associated with environmentally sustainable economic activities. In June 2017 the European Commission (EC) published its voluntary guidelines to help companies disclose environmental and social information. Later, in June 2019 a new supplement of these guidelines in order to introduce among others, the disclosure recommendations from the Task Force on Climate-related Financial Disclosures (TCFD). Finally, on 21 April 2021, the EC published the CSRD proposal which would amend the existing reporting requirements of the NFRD. Under this proposal, the European Financial Reporting Advisory Group (EFRAG) has delivered on November 2022 the draft European Sustainability Reporting Standards (ESRS), which will replace the NFRD guidelines.

In this context, following the Council's approval of the European Parliament's (EP) position, **the final CSRD** has been adopted. This Directive introduces more detailed reporting requirements and ensures that large companies and listed SMEs report on sustainability matters such as environmental rights, social, human and governance factors.

2. Main points

- **Amendments to the Directive on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings**.
  - It modifies the personal scope of the reporting requirements, extending their application to all large companies and all companies with securities listed on EU regulated markets, except micro-companies.
  - It clarifies the principle of double materiality, removing any ambiguity about the fact that companies should report information necessary to understand how sustainability matters affect them, and information necessary to understand the impact they have on people and the environment.
  - It specifies in greater detail the information that companies should disclose, which shall be clearly identifiable within the management report, through a dedicated section. In this respect, the final Directive adds the obligation for undertakings on the reporting of the information on the key intangible resources on which the business model of the undertaking fundamentally depends, and explain this dependency and how they are a source of value creation for the undertaking.
  - Additionally, regarding the information that shall be contained in the management report the final Directive adds new content (e.g.: i) a description of the greenhouse gas emission reduction targets at least for 2030 and 2050, where appropriate; ii) a description of the principal actual or potential adverse impacts connected with the undertaking's own operations and with its value chain, including actions taken to identify and track these impacts, and other adverse impact; iii) any actions taken by the undertaking to remediate or bring an end to actual or potential adverse impacts).
  - It mandates the undertakings to prepare their management reports in electronic format (XHTML format) and mark-up their sustainability reporting, including the disclosures laid down in Article 8 of Taxonomy Regulation.
  - The final Directive includes that certain undertakings (SMEs, small and non-complex institutions; captive insurance undertakings; and captive reinsurance undertakings) may limit their sustainability reporting, for example, to: i) a brief description of the undertaking's business model and strategy; or ii) a description of the undertaking's policies in relation to sustainability matters, among others.
  - The subsidiary undertakings and parent undertakings exempted from the reporting obligation will be now subject to new conditions under the **final Directive**. Additionally, the exemption **shall also apply to public interest entities** unless that public-interest entity is a large undertaking.
  - **As a novelty,** sustainability reporting standards shall specify forward-looking and retrospective information, and qualitative and quantitative information, as appropriate to be reported by undertakings and shall specify disclosures on value chains that are proportionate and relevant to the scale and complexity of the activities.
  - **As a novelty**, the coordination measures prescribed in the sustainability reporting rules shall not apply to an alternative investment funds (AIF) and UCITS.
  - It requires the statutory auditor to perform a limited assurance engagement on a company's sustainability reporting, including on the compliance of the sustainability reporting with the reporting standards.
  - Additionally, **the final Directive** modifies some definitions: net turnover; sustainability matters; sustainability reporting and key intangible resources.
  - **Another novelty** is that rules on sustainability reports of third country undertakings are inserted. Therefore, third country undertakings which generate a net turnover of more than EUR 150 million in the Union, and which have a subsidiary or a branch in the EU should be subject to EU sustainability reporting requirements.
- **Amendments to Directive on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market**. It introduces the requirement to include sustainability reporting in the management report. **As a novelty**, the statutory auditor shall express the opinion and statement on the management report.

- **Amendments to Directive on statutory audits of annual accounts and consolidated accounts**. It establishes rules concerning the statutory audit of annual and consolidated accounts and the assurance of annual and consolidated sustainability reporting, where this is performed by the statutory auditor or audit firm carrying out the statutory audit of financial statements. Some educational qualifications and professional competence requirements shall be fulfilled for a person to carry out a statutory.

3. Next Steps

- After being signed by the President of the EP and the President of the Council, the CSRD will be published in the Official Journal of the European Union and will enter into force 20 days afterwards. The new rules will need to be implemented by member states **18 months** later.
- The application of the regulation will take place in **four stages**:
    - reporting in **2025** on the financial year 2024 for companies already subject to the NFRD;
    - reporting in **2026** on the financial year 2025 for large companies that are not currently subject to the NFRD;
    - reporting in **2027** on the financial year 2026 for listed SMEs (except micro undertakings), small and non-complex credit institutions and captive insurance undertakings;
    - reporting in **2029** on the financial year 2028 for third-country undertakings with net turnover above 150 million in the EU if they have at least one subsidiary or branch in the EU exceeding certain thresholds.
- An **opt-out** will be possible for listed SMEs during a transitional period in order to alleviate the reporting burden, exempting them from the application of the directive **until 2028.** The undertaking shall however provide a statement in its management report declaring briefly why the sustainability reporting was not provided.
- The EC will adopt the final version of the standards as a delegated act (expected in **June 2023**), following consultations with EU member states and a number of European bodies. These standards shall not enter into force earlier than four months after their adoption by the Commission (approximately **October 2023**).
- The EC should adopt a second set of reporting standards at the latest by **30 June 2024**, specifying complementary information that undertakings should disclose about sustainability matters and reporting areas where necessary.

05/12/2022
Digital Operational Resilience Act (DORA)

1. Context

Given the ever-increasing risks of cyber-attacks, the EU is strengthening the ICT (Information Communication Technologies) security of financial entities such as banks, insurance companies and investment firms. In this regard, In this context, in September 2020 the European Commission (EC) adopted a the **Digital Finance Package**, including digital finance and retail payments strategies, and legislative proposals on crypto-assets and digital resilience.

In this context, the Council has adopted the **Digital Operational Resilience Act (DORA)** along with different aspects that require national transposition (**Directive on digital operational resilience for the financial sector**). These regulations will make sure the financial sector in Europe is able to stay resilient through a severe operational disruption, by creating a regulatory framework on digital operational resilience whereby all firms need to make sure they can withstand, respond to and recover from all types of ICT-related disruptions and threats. This note analyses solely the general requirements set out in DORA.

1. Main points

- **Scope of application**. DORA lays down uniform requirements concerning the security of network and information systems of financial entities as well as critical third parties which provide ICT-related services to them, such as cloud platforms or data analytics services. These regulation excludes: i) some managers of alternative investment funds; ii) some insurance and reinsurance undertakings; iii) institutions for occupational retirement provision which operate pension schemes which together do not have more than 15 members in total; iv) insurance intermediaries, reinsurance intermediaries and ancillary insurance intermediaries which are microenterprises or small or medium-sized enterprises; and natural and legal persons exempted pursuant Directive on markets in financial instruments (e.g persons providing investment services exclusively for their parent undertakings).
- **ICT risk management**. Financial entities shall:
  - Have in place an internal governance and control framework that ensures an effective and prudent management of ICT risk. DORA describes the different tasks of the management body on this regard. This also includes to establish a role in order to monitor the arrangements concluded with ICT third-party service providers.
  - Have a sound, comprehensive and well-documented ICT risk management framework, which includes at least strategies, policies, procedures, ICT protocols and tools that are necessary to duly and adequately protect all information assets and ICT assets. In addition, is necessary to: i) assign responsibility for managing and overseeing ICT risk; ii) review the framework at least once a year and iii) subject it to internal audit.
  - Identify all sources of ICT risk and the risk scenarios impacting them, as well as map the evolution of ICT risk over time.
  - Implement detection mechanisms of anomalous activities and conduct business impact analysis (BIA) of the exposures to severe business disruptions, as well as implement post ICT-related incident reviews.
  - Have in place crisis communication plans enabling a responsible disclosure of, at least, major ICT-related incidents or vulnerabilities to clients, counterparts and general public.

  This rules does not apply to :i) small and non-interconnected investment firms; ii) some payment institutions iii) some electronic money institutions and small institutions for occupational retirement provision. These institutions will carry out put in place a simplified ICT risk management framework described in the regulation.
- **ICT-related incident management, classification and reporting**. Financial entities shall:
  - Define, establish and implement an ICT-related incident management process to detect, manage and notify ICT-related incidents. That includes among other put in place early warning indicators, establish procedures to identify, track, log, categorise and classify ICT-related incidents or set out plans for communication to staff, external stakeholders and media.
  - Classify ICT-related incidents and determine their impact based on the listed criteria, (e.g. the number and/or relevance of clients or financial counterparts affected), as well as classify cyber threats based on the criticality of the services at risk.
  - Submit an initial notification and reports on major ICT-related incidents to the relevant competent authority, by means of the templates which will be developed by European Supervisory Authorities (ESAs).

- **Digital operational resilience testing**. For the purpose of assessing preparedness for handling ICT-related incidents, of identifying weaknesses, deficiencies and gaps in digital operational resilience, and of promptly implementing corrective measures, financial entities, shall, establish, maintain and review a sound and comprehensive digital operational resilience testing programme as an integral part of the ICT risk-management framework. This shall include
  - A range of assessments, tests, methodologies, practices and tools specified in the Regulation and follow a risk-based approach:
    - **Testing of ICT tools and systems**: The digital operational resilience testing programme shall provide the execution of appropriate tests, such as vulnerability assessments and scans, open source analyses, network security assessments, gap analyses and physical security reviews among others.
    - **Advanced testing of ICT tools, systems and processes based on threat-led penetration testing (TLPT):** Financial entities (excepting the ones under the simplified ICT risk management framework and other than microenterprises) shall carry out at least every 3 years advanced testing by means of TLPT, which is defined as a framework that mimics the tactics, techniques and procedures of real-life threat actors. Financial entities shall only use testers for the carrying out of TLPT, which fulfill specific characteristics listed in the regulation. These testers can be external or internal.
  - Ensuring that tests are undertaken by independent parties, whether internal or external.
  - Prioritise, classify and remedy all issues revealed throughout the performance of the test, as well as establish internal validation methodologies.
  - Ensuring that test are conducted at least yearly and covering all ICT systems and applications supporting critical or important function.
- **Managing of ICT third-party risk**.
  - Key principles for a sound management of ICT third-party risk: management as an integral component of ICT risk within their ICT risk management framework. That includes among others:
    - Maintain and update a register of information in relation to all contractual arrangements on the use of ICT services, as well as report the new arrangements on the use of ICT services to the competent authorities.
    - Ensuring the compliance of the ICT third-party service providers with appropriate information security standards and exercising access, inspection and audit rights over the ICT third-party service provider.
    - Ensuring that contractual arrangements on the use of ICT services may be terminated in specific circumstances. For ICT services supporting critical or important functions, financial entities shall put in place exit strategies.
    - Identify and assess all relevant risks in relation to the contractual arrangement.
  - Oversight framework of critical ICT third-party service providers: The ESAs shall designate the ICT third-party service providers that are critical for financial entities based on specific criteria listed in the Regulation and appoint a Lead Overseer for each one.
- **Information-sharing arrangements**. Financial entities may exchange amongst themselves cyber threat information and intelligence, including indicators of compromise, tactics, techniques, and procedures, cyber security alerts and configuration tools, to the extent that such information and intelligence sharing: i) aims to enhance the digital operational resilience of financial entities; ii) takes places within trusted communities of financial entities and iii) is implemented through information-sharing arrangements that protect the potentially sensitive nature of the information shared.

3. Next steps

- DORA will be published in the Official Journal of the European Union and will enter into force 20 days afterwards.
- It shall apply 24 months from the date of entry into force (approximately **December 2024**).
- ESAs shall submit regulatory technical standards (RTS) specifying some aspects established in this Regulation by 12 months from the date of entry into force of this Regulation (approximately **December 2023**).
- ESAs shall prepare a joint report assessing the feasibility of further centralisation of incident reporting through the establishment of a single EU Hub for major ICT-related incident reporting by financial entities by 24 months from the date of entry into force of this Regulation (approximately **December 2024**).

13/12/2022
Directive on resilience of critical entities

1. Context

In 2008, the European Commission (EC) published Directive on the identification and designation of European critical infrastructure. A 2019 evaluation of that directive highlighted the need to update and further strengthen the existing rules in light of new challenges facing the EU, such as the rise of the digital economy, the growing impacts of climate change, and terrorist threats. In this sense, the EC presented a proposal for a directive on the resilience of critical entities in December 2020.

In this context, the **Directive on the resilience of critical entities** has been approved, with the aim of reducing the vulnerabilities and strengthening the resilience of these entities in order that they are able to prevent, protect against, respond to, cope with and recover from attacks, natural disasters, terrorist threats and public health emergencies.

2. Main points

- **Subject matter and scope**. Lays down obligations on Member States to take specific measures aimed at ensuring that services which are essential for the maintenance of vital societal functions or economic activities are provided in an unobstructed manner in the internal market. Furthermore, it lays down obligations for critical entities aimed at enhancing their resilience and ability to provide services.
  The sectors and categories of entities, are, among others: i) energy; ii) transport; iii) banking; iv) financial market infrastructure; v) health; vi) drinking water; vii) waste water; viii) digital infrastructure; ix) public administration; x) space; xi) production, processing and distribution of food. This is a greater scope than the 2008 Directive, which only covered Energy and Transport.
- **National frameworks on the resilience of critical entities**. Each Member State shall adopt a strategy for enhancing the resilience of critical entities. This strategy shall set, among others:
  - <u>Strategic objectives and priorities</u> for the purposes of enhancing the overall resilience of critical entities.
  - A <u>governance framework</u> to achieve the strategic objectives and priorities.
  - A description of <u>measures necessary to enhance</u> the overall resilience of critical entities.
  - A <u>description of the process</u> by which critical entities <u>are identified</u>.

  Furthermore, each Member State shall identify the critical entities for the sectors and subsectors set out in the Directive and and ensure that those critical entities are notified that they have been identified as critical entities within one month of that identification.
- **Resiliencie of critical entities**.
  - <u>Risk assessment</u>. Member States shall ensure that critical entities carry out a risk assessment within nine months of receiving the notification. Critical entity risk assessments shall account for all the relevant natural and man-made risks which could lead to an incident, including those of a cross-sectoral or cross-border nature, accidents, natural disasters, public health emergencies and other threats.
  - <u>Resilience measures</u>. Member States shall ensure that critical entities take appropriate and proportionate technical, security and organisational measures to ensure their resilience, based on the relevant information provided by Member States on their risk assessment.
- **Critical entities of particular European significance**. An entity shall be considered a critical entity of particular European significance where it: i) has been identified as a critical entity; ii) provides the same or similar essential services to or in six or more Member States; and iii) has been notified by its competent authority, that it is considered a critical entity of particular European significance.
- **Supervision and enforcement**. In order to assess the compliance of the entities identified by Member States as critical entities Member States shall ensure that the competent authorities have the powers and means to: i) conduct on-site inspections of the critical infrastructure and the premises that the critical entity uses to provide its essential services; and ii) conduct or order audits in respect of critical entities.

3. Next Steps

- This Directive shall enter into force **20 days** following that of its publication in the Official Journal of the European Union.
- **By 21 months** from the date of entry into force, Member States shall adopt and publish the measures necessary to comply with this Directive.
- **By 54 months** from the date of entry into force, the Commission shall submit to the EP and to the Council a report assessing the extent to which each Member State has taken the necessary measures to comply with this Directive.

EFRAG

21/11/2022
Agreement on first set of draft ESRS to be submitted to the EC

1. Context

On 21 April 2021 the EC adopted a legislative proposal for a Corporate Sustainability Reporting Directive (CSRD) which would oblige companies under scope to report in compliance with European Sustainability Reporting Standards (ESRS). Under the proposed CSRD, EFRAG was mandated to develop draft of these standards. The timeline contained in the proposal assumed the elaboration of draft sustainability reporting standards in parallel to the legislative process of the proposed CSRD. In this regard, EFRAG published for consultation in May 2022 an initial draft of the ESRS. The consultation ended on 8 August 2022.

In this context, the EFRAG has approved the **Final version of the ESRS** which set out the requirements that undertakings shall comply to report on sustainability-related impacts, risks and opportunities under the CSRD. The information shall enable the understanding of the undertaking's impacts on those matters and how they affect the undertaking's financial development, performance and position. This final version includes various amendments to the initial draft agreed after the feedback received during the consultation period. In this note these changes are outlined.

2. Main points

- **Scope of information to disclose**.
  - The Disclosure Requirements (DR) cover the **following areas**: i) Governance (GOV): the governance processes, controls and procedures used to monitor and manage impacts, risks and opportunities; ii) Strategy (SBM): how the undertaking's strategy and business model(s) interact with its material impacts, risks and opportunities, including the strategy for addressing them; iii) Impact, risk and opportunity management (IRO): the process(es) by which impacts, risks and opportunities are identified, assessed and managed through policies and action and iv) Metrics and targets (CCR-3): how the undertaking measures its performance, including progress towards the targets it has set.
  - There are **three types** of applicable disclosures: i) sector-agnostic; ii) sector-specific and iii) entity-specific.
  - **Environmental topic standards** include: Climate Change, Pollution, Water and marine resources, Biodiversity and ecosystems, and Circular economy. On the other hand, **Social topics standards** include Own workforce, Workers in the value chain, Affected communities, and Consumers and end-users.
  - If the undertaking concludes that a topic is not material and therefore it omits all the DR in a topical standard, it shall briefly explain the conclusions of its materiality assessment for the topic. However there is **mandatory information** that has to be reported also if it refers to a topic assessed to be not material: i) ESRS 2 General disclosures; ii) datapoints prescribed in topical ESRS that are listed in Appendix D of General disclosures that stem from other EU legislation; iii) ESRS E1 Climate change; iv) specific DR (including their datapoints) set out in ESRS S1 (Own workforce).
- **Time horizon**.
  - The reporting period for the undertaking's sustainability statements shall be **consistent with that of its financial statements**. Additionally, the undertaking shall establish appropriate linkage in its sustainability statements between **retrospective and forward-looking information**, when relevant, to foster a clear understanding of how historical data relate to future-oriented data.
  - When preparing its sustainability statements, the undertaking shall adopt the following **time intervals** as of the end of the reporting period: i) for short-term: the period adopted by the undertaking as reporting period in its financial statements; ii) for medium-term: from the end of the reporting period for short-term above to five years; and iii) for long-term: more than five years.
- **General presentation requirements**.
  - The presentation of the information about sustainability matters shall be prepared in compliance with the CSRD and the ESRS (i.e., **sustainability statements**) within the undertaking's management report.
  - Undertakings shall report **all the applicable disclosures** (sector-agnostic, sector-specific and entity-specific) required by ESRS standards and disclosures ESRS, as well as, the disclosures pursuant to **Article 8 of Regulation 2020/852 (EU Taxonomy)**.
  - The undertaking shall structure its sustainability statements in **four parts**: i) general information; ii) environmental information; iii) social information and iv) governance information.
- **Main changes to the proposed ESRS**.
  - ESRS 1 (General requirements):
    - **Approach to materiality**: The overall approach has been approved. However, it is clarified that there are no omissions for DRs related to policies, actions and targets ESRS E1 and ESRS 2. On the other hand, in order to omit a datapoint the information provided shall allow to meet the objective of the DR. It has also decided to modify the area of mandatory items to be reported irrespective of materiality.
    - **Threshold for material impacts**, **risks and opportunities**: Following the decision of the ISSB to discontinue the term 'significant' as a reference to materiality of risks and opportunities and in order to enhance the alignment with impact materiality assessment in GRI, the threshold for material, impacts, risks and opportunities is now linked to the concept of them having respectively material effects on people and the environment and material financial effects.

- ESRS E1 (Climate change): It has been added: i) EBA datapoints; ii) exposure to coal, oil and gas related-activities in terms of revenue and CapEx; iii) clarifications on language on reporting boundary for its sustainability reporting (referred to the one retained for its financial statements expanded to its upstream and downstream value chain) and disclosure of Scope 1 and 2 emissions.
- ESRS E3 (Water and marine resources): it has been added additional data points and additional content on "financial effects arising from opportunities" and transition provision requirement has been eliminated.
- ESRS E4 (Biodiversity and ecosystems): on the one hand it has been specified the scope for listed priority sectors and reporting of mandatory indicators has been established, such as: i) indicators for Life Cycle Assessment (LCA); ii) for priority sectors material impacts on land-use change and ii) for the status of ecosystems. Additionally, SFDR-datapoint to report the share of non-vegetated surface area compared to the total surface area was removed. Lastly, the DR on Financial effects was aligned across environmental standards.
- ESRS E5 (Resource use and circular economy): included modifications of data points in DR E5-3 (targets) and DR E5-5 (resource outflows) and additional content on "financial effects arising from opportunities" in DR E5-6 (financial effects).
- ESRS S1(Own workforce): new mandatory DR are included , such as requirements for diversity for undertakings with 250 employees or more. Moreover, on the latter, a new DR is included as diversity and people with disabilities has been split. On the other hand, datapoints is modified, e.g. in order to diversity policies to be mandatory.
- ESRS G1 (Business conduct): the two original governance ESRS have been narrowed to one topic, namely Business Conduct. Moreover, a requirement for a description of policies/practices to prevent late payments to SMEs has been added and financial information about spending on lobbying activities are now voluntary, at the same time additional granular information has been deleted. Finally, split of SME information was deleted and while the standard payment terms requirement was simplified, this still includes the requirement to provide such information by main category of suppliers.
- Minor changes in ESRS 2 (General disclosure); ESRS E2 (Pollution); ESRS S2(Workers in value chain)/ S3 (Affected communities)/ S4 (Consumers and users).

3. Next steps

- The drafts are subject to **editorial review** of the EFRAG Sustainability Reporting Board (SRB) before its presentation to the EC. This includes among other steps: i) editorial review of SRB members and EFRAG Secretariat; ii) checking references to number of paragraph and name of paragraph/chapter within the same standard and in other standards;iii) streamlining/understanding of the language; (d) alignment of language across standards; and iv) formatting.

Publications of the quarter

Local publications

09/12/2022
Principles for Climate-Related Financial Risk Management

1. Context

The financial impacts that result from the economic effects of climate change and the transition to a lower carbon economy pose an emerging risk to the safety and soundness of financial institutions and the financial stability of the United States. Furthermore, financial institutions are likely to be affected by both the physical risks and transition risks associated with climate change.

In this context, the Fed has published the **Draft Principles for Climate-Related Financial Risk Management for Large Financial Institution**, that would provide a high-level framework for the safe and sound management of exposures to climate-related financial risks for supervised financial institutions with over $100 billion in assets.

2. Main points

- **General Principles**.
  - Risk management. Management should oversee the development and implementation of processes to identify, measure, monitor, and control climate-related financial risk exposures within the financial institution's existing risk management framework.
  - Data, Risk Measurement and Reporting. Management should incorporate climate-related financial risk information into the financial institution's internal reporting and monitoring processes to facilitate timely and sound decision-making.
  - Scenario analysis. Management should develop and implement climate-related scenario analysis frameworks in a manner commensurate to the financial institution's size, complexity, business activity, and risk profile.
- **Management of Risk Areas**. Management should consider and incorporate climate-related financial risks when identifying and mitigating all types of risk. These risk assessment principles describe how climate-related financial risks can be addressed under various categories.
  - Credit risk. Effective credit risk management practices could include monitoring climate-related credit risks through sectoral, geographic, and single name concentration analyses, including credit risk concentrations stemming from physical and transition risks.
  - Liquidity risk. Management should assess whether climate-related financial risks could affect its liquidity position and, if so, incorporate those risks into their liquidity risk management practices and liquidity buffers.
  - Other Financial Risk. It should be monitored the interest rate risk for greater volatility or less predictability due to climate-related financial risks.
  - Operational Risk. It should be considered how climate-related financial risk exposures may adversely impact a financial institution's operations, control environment, and operational resilience.
  - Legal/Compliance Risk. It should be considered how climate-related financial risks and risk mitigation measures affect the legal and regulatory landscape in which the financial institution operates.
  - Other Non-financial Risk. It should be monitored how the execution of strategic decisions and the operating environment affect the financial institution's financial condition and operational resilience.

3. Next steps

- Comments on the draft principles must be received on or before **6 February 2023**.

BANK OF ENGLAND
PRUDENTIAL REGULATION AUTHORITY

17/10/2022
CP12/22: Risks from contingent leverage

1. Context

PRA rules require firms to have in place sound, effective, and comprehensive strategies, processes, and systems to identify and manage any major sources of risk that affect their capital adequacy, including the risks of excessive leverage. Specifically, firms should consider their vulnerability due to excessive leverage or contingent leverage hat may require unintended corrective measures to their business plans.

In this context, the PRA has published the **Consultation Paper (CP) 12/22** which sets out the proposals to update the PRA's supervisory expectations for firms undertaking an Internal Capital Adequacy Assessment Process (ICAAP) in relation to the **risks from contingent leverage**, and to introduce a new data reporting requirement for collecting data on trading exposures where these risks may most likely arise. The PRA considers these proposals would help firms identify, monitor, and manage contingent leverage risk and would improve its ability to monitor the evolution of these risks with more granular data, helping the PRA take targeted action where relevant

2. Main points

- **Changes to ICAAP supervisory expectations**. The PRA proposes to insert **guidance on the risks of contingent leverage** into in Supervisory Statement on the ICAAP and the SREP (SS31/15) by adding a new section on the risks of excessive leverage. Under the proposed guidance, firms would be expected to consider the extent to which they would be able to continue to participate in certain activities as a result of using trades with a higher leverage exposure than before.
    - In carrying out an assessment of the risk of excessive leverage firms should consider <u>any contingent leverage risk</u> in transactions and trade structures that receive lower leverage ratio exposure measure values than other economically similar transactions (e.g agency models to transact in security financing transactions (SFTs) or derivatives, SFT netting packages, collateral swaps)
    - The extent to which firms can use these more capital efficient forms of trades <u>may be limited</u> in certain conditions (e.g in the event of the default of counterparties, the movement of certain market parameters, or changes to broader market conditions).
    - Firms should consider the extent to which they would need, and be able, to continue to participate in these trades and the extent to which they would instead need to use <u>economically similar transactions</u> or structures that receive higher leverage ratio exposure measure values.
    - To the extent that firms would not continue to participate in such trades in certain circumstances, firms should consider what <u>implications this might have for their revenues</u>. Examples of risks and assumptions that firms should pay particular consideration to include, but are not limited to: i) Contractual obligations; ii) Franchise risk; iii) Liquidity management.
    - As part of their ICAAP responses, firms should set out contingent leverage risks by <u>each relevant trade structure</u> that optimises leverage exposure.
- **Changes to reporting requirements**. The PRA proposes that firms subject to a minimum leverage ratio requirement (LREQ firms) report data on **trades that the PRA has identified to be most relevant** to the risk of contingent leverage at the same level of application as their existing leverage ratio reporting requirements. These are: i) collateral swaps; ii) netted repos; iii) agency trade models to transact in SFTs; and iv) cash and synthetic prime brokerage positions:
    - Firms would be required to <u>report a breakdown of these trades</u> by the amounts internalised, netted, or guaranteed (ie any condition that leads to a reduction in the leverage exposure amounts). These data would be provided with a breakdown of the highest level of liquidity (Level 1 HQLA), exposures designated for franchise clients, and any intra-group exposures for firms that are headquartered outside of the UK. This would enable the PRA to use internal scenario assessments to judge the materiality of contingent leverage risks that may arise in a market stress.
    - The PRA proposes the data would be reported on a six-monthly basis at the applicable reporting reference dates (<u>30 June and 31 December</u>).

3. Next steps

- This consultation closes on Friday **3 February 2023**.
- The proposed reporting change would be effective from **1 July 2023**, with the first submission expected to the PRA in 2024, with a first reference reporting date of **31 December 2023**. The PRA further proposes that firms would report data on both an end-period and averaged basis

BANK OF ENGLAND
PRUDENTIAL REGULATION AUTHORITY

02/11/2022
CP16/22 on implementation of the Basel 3.1 standards

1. Context

In response to the global financial crisis, the Basel Committee on Banking Supervision (BCBS) released greed a series of reforms to its standards (Basel standards). These reforms, collectively known as the Basel III standards were intended to enhance the resilience of banks throughout the economic cycle. Many of the Basel III standards have already been implemented in the UK through EU legislation that was onshored as part of the UK's exit from the EU on 31 December 2020. Additionally, in April 2022 the PRA released a CP which sets out its proposals for introducing a definition of a 'Simpler-regime Firm through the 'strong and simple' initiative that would seek to simplify the prudential framework for non-systemic domestic banks and building societies, while maintaining their resilience.

In this context, the PRA has published the **Consultation Paper (CP) 16/22 which sets out the proposed rules and expectations that cover the parts of the reforms of Basel III standards** that remain to be implemented in the UK (the Basel 3.1 standards). The CP also includes revised criteria for determining which firms would be in scope of the future 'strong and simple' regime. The proposals address mainly the last element of the reforms – the measurement of RWAs (the denominator of capital ratios). The proposals address mainly: the calculation of RWAs by improving both the measurement of risk in internal models (IMs) and standardised approaches (SAs), and the comparability of risk measurement across firms.

2. Main points

- **Scope**. This CP is relevant to PRA-authorised banks, building societies, PRA-designated investment firms, and PRA-approved or PRA-designated financial or mixed financial holding companies (collectively 'firms'). PRA-authorised banks, building societies and designated investment firms that meet the 'Simpler-regime criteria' definition would not have to apply the proposed implementation of the Basel 3.1 standards set out in this CP, but could choose to be subject to them.
- **Credit risk – standardised approach**. The proposals include:
    - enhanced risk-sensitivity, including lower risk weights for low-risk mortgage lending and the introduction of specific treatments for 'specialised lending'.
    - a more risk-sensitive treatment for exposures to unrated corporates, including unrated funds;
    - a simpler, more transparent and prudent mechanism for determining risk weights aimed at supporting lending to small and medium-sized enterprises (SMEs).
    - a more risk-sensitive approach to risk-weighting equity exposures, including a prudent treatment for higher risk 'speculative unlisted equity'.
    - off-balance sheet conversion factors (CFs) aligned to local UK market conditions.
    - a proportionate approach to SA operational requirements, including for the new due diligence requirements included in the Basel 3.1 standards.
- **Credit risk – internal ratings based approach**. These proposals include:
    - removing the option to use the IRB approach for certain categories of exposures and restricting modelling within the IRB approach for certain other categories of exposures where it is judged that the model parameters cannot be estimated reliably for regulatory capital purposes. As such, firms using the IRB approach would no longer be required to model all material exposure classes.
    - adopting exposure-level, model parameter floors ('input floors') to help ensure a minimum level of conservatism for portfolios where the IRB approaches remain available.
    - providing greater specification of parameter estimation practices to reduce variability in RWAs for portfolios where the IRB approaches remain available.
    - improving the operation of the elements of the IRB framework that do not derive from the Basel 3.1 standards which includes a proposal to change the threshold for approving IRB model applications and IRB model changes from 'full compliance' with the IRB requirements to 'material compliance'.
- **Credit risk mitigation**. The proposals regard to:
    - Funded credit protection (FCP): i) under the SA, removal of certain methods for calculating the effects of FCP and amendments to the methods that remain available; ii) under the foundation internal ratings based (FIRB) approach, amendments to existing methods for calculating the effects of FCP, including new supervisory LGD values and collateral volatility adjustments; and iii) under the advanced internal ratings based (AIRB) approach, a new technique for calculating the effects of FCP where firms lack sufficient data (LGD modelling collateral method).
    - Unfunded credit protection (UFCP): i) restrictions on existing methods where firms adjust PDs and/or obligor grades in IRB models; and new restrictions on recognising and modelling UFCP which would depend on the credit risk approach applicable to comparable direct exposures to the protection provider.

- **Market risk**. Sets out the proposals to implement Basel 3.1 on market risk, which included the new market risk framework finalised by the BCBS in 2019. These proposals would:
  - more clearly define the scope of the framework by introducing a stricter delineation between positions that should be allocated to the trading book and non-trading book, and specifying the treatment of internal hedges between the two books.
  - retain a recalibrated version of the existing standardised approach as the simplified standardised approach (SSA) for firms with limited derivatives business. The updated calibration reflects market developments since the approach was initially introduced.
  - introduce a new, more comprehensive standardised approach – new advanced standardised approach (ASA). The PRA proposes that this would be used by firms that do not meet the criteria to use the SSA and that have not been granted supervisory permission to use the new internal model approach (IMA).
  - introduce a new IMA for firms that have been granted supervisory permission. This approach would replace the existing modelled approach.
- **Credit valuation adjustment and counterparty credit risk** aligned with the new credit valuation adjustment (CVA) risk framework finalised by the BCBS in 2019. The new framework is intended to improve the risk-sensitivity and comparability of CVA capital requirements, and incorporates the following improvements relative to the existing framework.
  - a more comprehensive treatment of CVA risks and a better recognition of CVA hedges.
  - closer alignment with industry CVA practices for accounting purposes.
  - new methodologies, which have less reliance on modelling.
  - alignment with the new market risk framework methodology in the case of the most advanced method (SA-CVA).
  - increase the scope of application of the CVA risk framework, relative to the CRR, to include exposures to sovereigns, non-financial counterparties, and pension funds. Legacy trades would have transitional arrangements available.
  - apply a targeted reduced risk weight in the CVA risk framework compared to Basel 3.1 for exposures to pension funds.
  - apply a reduced 'alpha factor' of one in the standardised approach to counterparty credit risk (SA-CCR) framework for calculating exposures to non-financial counterparties and pension funds.
- **Operational risk**. The proposals include the implementation of the new standardised approach (SA) for Pillar 1 operational risk capital requirements; and the exercise of national discretion to set the internal loss multiplier (ILM) equal to 1.
- **Output floor**. The PRA proposes to introduce a floor on RWAs that would require relevant firms with internal model (IM) permissions to calculate RWAs as the higher of: i) the total RWAs calculated using all approaches that they have supervisory approval to use (including IM approaches); or ii) 72.5% of RWAs calculated using only standardised approaches (SAs) (where the latter is called 'the output floor' or 'floored RWAs'). This requirement would apply also to UK firms that are not part of a group headquartered overseas. IM firms would apply the PRA's proposed implementation of the SA in the same manner as for firms without permission to use IMs:
- **Interactions with the PRA's Pillar 2 framework**. The PRA has not included contain any specific new policy proposals but intends to review its Pillar 2A methodologies more fully by 2024, so that Pillar 2 requirements and any corresponding reporting requirements are updated as necessary before the changes to the Pillar 1 framework set out in this CP are implemented. However, this chapter sets out a range of topics the PRA is currently considering:
  - how Pillar 2A operational risk, market risk and credit risk methodologies interact at a high level with the proposed changes to Pillar 1 risk-weighted asset (RWA) approaches set out within this CP.
  - at a high level, the consequential impacts to capital buffers including the PRA buffer.
  - the timing and setting of firm-specific capital requirements.
- **Disclosure (Pillar 3)**. The PRA proposes to modify, and in some instances delete, existing disclosure templates, as well as introduce new disclosure templates, to align disclosure requirements with Basel 3.1, and reflect the proposals set out in tis CP. The PRA proposes to adopt the Basel 3.1 disclosure templates, without material deviations to the content or format.
- **Reporting**. The proposals set out in this chapter include:
  - revisions to existing COREP templates and instructions on own funds, and own funds' requirements to reflect the proposals set out in this CP.
  - the deletion of certain COREP templates that would become obsolete under the proposals in this CP.
  - the introduction of new COREP templates to reflect the proposed new Pillar 1 RWA calculations, and internal model use conditions proposed in this CP.
  - deletion of the FSA005 Market risk template to reflect the proposed discontinuation of the 'risks not in value-at-risk' (RNIV) methodology for the calculation of market risk.
  - revisions to the Capital+ templates and instructions to reflect the proposals set out in this chapter.
- **Currency redenomination**. The PRA proposes to continue applying the methodology used when redenominating thresholds in respect of other regulatory changes to the proposals covered in this CP, specifying EUR thresholds and monetary values in GBP when implementing Basel 3.1, and in making PRA rules that cover material that is currently covered in the CRR. Additionally, the PRA proposes a separate but similar, methodology to redenominate in GBP certain thresholds and monetary values in USD including those within CRR articles that are stated in EUR but based on a USD threshold in Basel standards.

3. Next steps

- This consultation closes on **31 March 2023**.
- The PRA's proposed implementation date for the changes resulting from this CP would be **1 January 2025.**
- The PRA proposes to implement transitional provisions covering a **five-year period** beginning on the PRA's proposed implementation date:
    - For the output floor.
    - For SA and IRB firms implementation of the revised treatment of equity exposures in the credit risk SA.
    - For legacy trades under which they would be exempt from CVA RWAs prior to the application of the new CVA requirements set out in this CP. Firms would, however, have the option to irreversibly apply the new CVA requirements to these trades instead.
- In the SA-CCR framework, the PRA proposes to allow firms to apply the reduced alpha multiplier to trades with certain counterparties, including legacy trades with such counterparties, from the proposed implementation date, but to require them to maintain additional Pillar 1 capital equal to the reduction in capital requirements on the proposed implementation date for the legacy trades. The additional capital requirement for the legacy trades would reduce linearly over **five years**.
- This CP proposes a Transitional Capital Regime so that small firms do not need to apply the Basel 3.1 standards before the future implementation date for a permanent risk-based capital framework for the simpler regime, and so that they remain subject to a regime based on the existing CRR provisions until that time. The PRA proposes that firms meeting the Simpler-regime criteria on **1 January 2024** can choose between being subject to Basel 3.1 on the same timetable as other firms to which the new rules apply, or being subject to the Transitional Capital Regime that would be in place until the implementation date of a permanent risk-based capital framework for the simpler regime.

23/12/2022
SEC - Proposed rule relating to a broker-dealer's duty of best execution

1. Context

The duty of best execution requires a broker-dealer to execute customers' trades at the most favorable terms reasonably available under the circumstances, and customers benefit from broker-dealers' robust considerations of execution opportunities that may provide customers with the most favorable terms. While Financial Industry Regulatory Authority, Inc. (FINRA), a national securities association, and the Municipal Securities Rulemaking Board (MSRB) have established rules and guidance directly addressing the duty of best execution, the SEC believes it is appropriate to propose its own comprehensive and detailed best execution requirements which can be more effective and consistent.

In this context, the SEC have published proposed new rules under the Exchange Act relating to a broker-dealer's duty of best execution consistent with FINRA and MSRB standards which would enhance the existing regulatory framework concerning the duty of best execution by requiring detailed and robust policies and procedures for all broker-dealers, including situations of certain conflicted transactions with retail customers, as well as related review and documentation requirements.

2. Main points

- The Best Execution Standard. It would be required that in any transaction for or with a customer, or a customer of another broker-dealer, a broker-dealer, or a natural person who is an associated person of a broker-dealer, must use <u>reasonable diligence</u> to ascertain the best market for the security, and buy or sell in such market so that the resultant price to the customer is as favorable as possible under prevailing market conditions.
    - The proposed best execution standard would apply to: i) securities transactions for or with a broker-dealer's own customers, as well for those of another broker-dealer; and ii) transactions for or with a customer, regardless of whether the broker-dealer is transacting for or with the customer on an agency basis or in a principal capacity
    - <u>Exemptions from this rule</u> are proposed: i) when the broker-dealer is quoting a price for a security where another broker-dealer routes a customer order for execution against that quote; ii) when an institutional customer, exercising independent judgment, executes its order against the broker-dealer's quotation; or iii) when the broker-dealer receives an unsolicited instruction from a customer to route that customer's order to a particular market for execution.
- Best Execution Policies and Procedures. It would be required that a broker-dealer that effects any transaction for or with a customer or a customer of another broker-dealer to establish, maintain, and enforce written policies and procedures reasonably that would address: i) how the broker-dealer would comply with the best execution standard; and ii) how the broker-dealer would determine the best market for the customer orders that it receives.
- Policies and Procedures and Documentation for Conflicted Transactions. It would be required that a broker-dealer's best execution policies and procedures to address additional considerations with respect to "conflicted transactions." It would also require a broker-dealer to <u>document its compliance</u> with the proposed best execution standard for conflicted transactions and document any arrangement concerning payment for order flow.
    - "Conflicted transaction" would be defined as any "transaction for or with a retail customer" where a broker-dealer: i) executes an order as principal, including riskless principal; ii) routes an order to, or receives an order from, an affiliate for execution; or iii) provides or receives payment for order flow.
    - Best execution policies and procedures would address the following with respect to conflicted transactions: i) how the broker-dealer will obtain and assess information including additional information about price, volume, and execution quality, in identifying a broader range of markets beyond those identified as material potential liquidity sources; and ii) how the broker-dealer will evaluate a broader range of markets, that might provide the most favorable price for customer orders, including a broader range of order exposure opportunities and markets that may be smaller or less accessible.
- Regular Review of Execution Quality. It would be required that a broker-dealer, no less frequently than quarterly, to review the execution quality of its transactions for or with its customers or customers of another broker-dealer, and how such execution quality compares with the execution quality the broker-dealer might have obtained from other markets, and to revise its best execution policies and procedures, including its order handling and routing practices, accordingly. It is also included the obligation to document the results of the review.
- Introducing Brokers. It would be permitted a broker-dealer that qualifies as an introducing broker to <u>rely on its executing broker</u> to comply with the best execution proposed rules subject to certain review requirements.
    - "Introducing broker" would be defined as a broker-dealer that: i) does not carry customer accounts and does not hold customer funds or securities; ii) has entered into an arrangement with an unaffiliated broker-dealer that has agreed to handle and execute on an agency basis all of the introducing broker's customer orders ("executing broker"); and iii) has not accepted any monetary payment, service, property, or other benefit that results in remuneration, compensation, or consideration from the executing broker in return for the routing of the introducing broker's customer orders to the executing broker.

  - An introducing broker that routes customer orders to an executing broker does not need to separately comply with the best execution proposed rules so long as the introducing broker establishes, maintains, and enforces policies and procedures that require the introducing broker to regularly review the execution quality obtained from such executing broker, compare it with the execution quality it might have obtained from other executing brokers, and revise its order handling practices, accordingly. The introducing broker would also be required to document the results of this review.
- Annual Report. It would be required a broker-dealer that effects any transaction for or with a customer or a customer of another broker-dealer to review, no less frequently than annually, review and assess the design and overall effectiveness of its best execution policies and procedures, including its order handling practices.

3. Next steps

- Comments to the proposed rules should be received on or before **March 31, 2023,** or 60 days after date of publication in the Federal Register, whichever is later.

02/11/2022
Economic Crime and Corporate Transparency Bill

1. Context

The UK has one of the world's largest and most open economies, making it an attractive place for global business. However, this same openness exposes the UK to the risk of fraud and money laundering, which, in turn, funds serious and organised crime here in the UK, and facilitates corruption overseas. The threat of illicit finance undermines legitimate business and impacts on everyday society and all citizens' lives. In August 2022, the government introduced the Economic Crime (Transparency and Enforcement) (ECTE) which is aimed at strengthening the UK's fight against economic crime.

In this context and following the ECTE, the UK government has published the **Economic Crime and Corporate Transparency Bill** in order to deliver a suite of wider-ranging reforms to tackle economic crime and improve transparency over corporate entities.

2. Main points

- **Companies House reform**. The Bill will reform the role of Companies House and improve transparency over UK companies and other legal entities in order to strengthen the business environment, support the national security and combat economic crime, whilst delivering a more reliable companies register to underpin business activity. The reforms include:
    - Introducing identity verification for all new and existing registered company directors, People with Significant Control, and those delivering documents to the Registrar.
    - Broadening the Registrar of Companies House's powers so that the Registrar can become a more active gatekeeper over company creation and custodian of more reliable data, including new powers to check, remove or decline information submitted to, or already on, the companies register.
    - Improving the financial information on the register so that the register is more reliable, complete and accurate, reflects the latest advancements in digital technology, and enables better business decisions.
    - Providing Companies House with more effective investigation and enforcement powers and introducing better cross-checking of data with other public and private sector bodies. Companies House will be able to proactively share information with law enforcement bodies where they have evidence of anomalous filings or suspicious behaviour.
    - Enhancing the protection of personal information provided to Companies House to protect individuals from fraud and other harms.
    - Broader reforms to clamp down on misuse of corporate entities, such as the duty to deliver (e.g. confirmation statements or rules on disqualification of persons designated under sanctions legislation).
- **Cryptoassets**. The Bill will provide additional powers to law enforcement so they are able to more quickly and easily seize and recover cryptoassets which are the proceeds of crime or associated with illicit activity such as money laundering, fraud and ransomware attacks.
- **Strengthening anti-money laundering powers**. The Bill will strengthen anti-money laundering powers, enabling better information sharing on suspected money laundering, fraud and other economic crimes. The reforms will:
    - Enable businesses in certain situations to share information more easily for the purposes of preventing, investigating or detecting economic crime by disapplying civil liability for breaches of confidentiality for firms who share information to combat economic crime.
    - Enable proactive intelligence gathering by law enforcement and strengthening the National Crime Agency's Financial Intelligence Unit's (FIU) ability to obtain information from businesses relating to money laundering and terrorist financing by removing the requirement for a pre-existing Suspicious Activity Report (SAR) to have been submitted before an Information Order (IO) can be made.
    - Focus private sector and law enforcement resources on high value activity, reducing the reporting burden on businesses and enabling greater prioritisation of law enforcement resource by expanding the types of case in which businesses can deal with clients' property without having to first submit a Defence Against Money Laundering (DAML) SAR.
- **Limited partnership reform**. The Bill will tackle the misuse of limited partnerships, including Scottish limited partnerships, while modernising the law governing them.

3. Next steps

- The Bill started in the House of Commons and is not approved yet. The first session of the bill's committee stage in the House of Commons is scheduled for 25 October 2022. After that a third reading will take place and it will pass to the House of Lords for approval.

Other publications of interest

Capital, liquidity and leverage

CAPITAL BUFFERS

(05/10/2022) BCBS - Buffer usability and cyclicality in the Basel framework / Newsletter on positive cycle-neutral countercyclical capital buffer rates

The Basel Committee on Banking Supervision (BCBS) has published a second evaluation report assessing the impact of the implemented Basel reforms regarding buffers usability and cyclicality. The report found some indications of a positive relationship between lending and the capital headroom of banks. Given the evaluation findings, the longer-term impacts of the pandemic, ongoing geopolitical events and the potential for new risks to emerge, the Committee wishes to stress the importance of the prudent build-up and use of buffers at banks to smooth the impact of internal and external shocks. To facilitate this, some jurisdictions have chosen to implement positive cycle-neutral countercyclical capital buffer (CCyB) rates.

CCPs

(17/10/2022) ESMA – ESMA temporarily amends CCP collateral requirements to provide liquidity relief on energy derivatives markets

The European Securities and Markets Authority (ESMA) has published a report which contains Regulatory Technical Standards (RTS) to amend Delegated Regulation 153/2013 on requirements for central counterparties (CCPs) in order to temporarily expand the pool of eligible collateral to uncollateralised bank guarantees for Non-Financial Counterparty (NFCs) acting as clearing members and to public guarantees for all types of counterparties.

GOVERNMENT BOND MARKETS

(20/10/2022) FSB – FSB analyses liquidity in core government bond markets

The Financial Stability Board (FSB) has published a report on liquidity in core government bond markets. The report forms part of the FSB's work programme to enhance the resilience of non-bank financial intermediation (NBFI) and it outlines measures to: i) mitigate unexpected and significant spikes in liquidity demand by non-bank investors; ii) enhance the resilience of liquidity supply in stress; iii) enhance market oversight, risk monitoring and the preparedness of authorities and market participants.

IRRBB

(20/10/2022) EBA – Final Draft for IRRBB SOT / Final Draft for IRRBB SA / Final Guidelines on IRRBB and CSRBB

The European Banking Authority (EBA) has published two final documents for its regulatory technical standards (RTS) on the Interest Rate Risk in the Banking Book (IRRBB) supervisory outlier test (SOT), the IRRBB and credit spread risk arising from non-trading book activities (CSRBB) and the guidelines on IRRBB and CSRBB. With respect to the previous drafts the following changes stand out: for the Final draft RTS on IRRBB SOT it is added in Article 2 that the calibration of the specified sizes for the disturbances must be performed at least every five years. For the IRRBB SA there are also changes in the nomenclature and formulation of certain sections, standing out the changes in the calculation of the economic value of own funds. Regarding the Guidelines on IRRBB and CSRBB the entry into force has been changed, in general, to June 30 2023.

IFRS9

(24/10/2022) IFRS – IASB adds narrow-scope project to work plan on possible amendments to financial instruments Accounting Standard

The International Accounting Standards Board (IASB) has expanded the scope of its maintenance project on the work plan for proposed narrow-scope amendments to IFRS 9. The aim of the proposed amendments is to respond to stakeholders' feedback on the Request for Information published in September 2021 as part of the Post-implementation Review of IFRS 9. The proposed amendments will cover three areas: i) contractual cash flow characteristics, ii) electronic cash transfers and iii) equity instruments and other comprehensive income. The next milestone is the publication of the Exposure Draft on these proposals.

MORTGAGE INSURANCE SCHEMES

(26/10/2022) BoE – Regulatory treatment of retail residential mortgages provided under private mortgage insurance schemes with similar contractual features to MGS

The Prudential Regulation Authority (PRA) has published a Statement on the regulatory treatment of retail residential mortgage loans under private mortgage insurance schemes with similar contractual features to the Mortgage Guarantee Scheme. This statement does not provide an exhaustive commentary of the regulatory requirements for these loans, firms should review the relevant legislation and, if necessary, seek independent advice to satisfy themselves that they meet all applicable requirements. In particular, the UK Capital Requirements Regulation (CRR) requires firms to obtain a legal opinion on the effectiveness and enforceability of credit protection afforded by a guarantee.

Other publications of interest

Capital, liquidity and leverage

OPEN-END FUNDS

(02/11/2022) SEC – SEC Proposes Enhancements to Open-End Fund Liquidity Framework

The Securities and Exchange Commission (SEC) has voted to propose amendments to better prepare open-end funds for stressed conditions and to mitigate dilution of shareholders' interests. The rule and form amendments are expected to enhance how funds manage their liquidity risks, by requiring the implementation of liquidity management tools, and by revising the frequency and introducing greater detail in the information reported by funds.

CRR

(03/11/2022) EBA – EBA publishes assessment on the application of the supporting factor to infrastructure lending

The European Banking Authority (EBA) has published a Report, which analyses some qualitative as well as quantitative aspects of the lending trends and riskiness of infrastructure loans which have benefitted from a capital reduction due to the introduction of the so-called infrastructure supporting factor (ISF) under the Capital Requirements Regulation (CRR). Conclusions of the Report show that the findings, based on the quantitative data and the qualitative survey, do not allow to conclude on the impact of ISF on lending. On the other hand, the expected higher risk- sensitivity of the standardised approach to credit risk when CRR III comes into force would support the questioning of the application of the ISF going forward. In any case, the EBA warns of the voluntary nature of the survey and the consequent sample selection bias that should be taken into account when interpreting these results.

SOLVENCY II

07/11/2022) EIOPA – Monthly update of the symmetric adjustment of the equity capital charge for Solvency II – end-October 2022

The European Insurance and Occupational Pensions Authority (EIOPA) has published the technical information on the symmetric adjustment of the equity capital charge for Solvency II with reference to the end of October 2022. This publication includes an attached document with the Value of EIOPA Equity Index and the calculations of Synmetric Adjustment through the years.

NBFI

(10/11/2022) FSB – FSB sets out policy proposals to address systemic risk in non-bank financial intermediation

The Financial Stability Board (FSB) has published a progress report to the G20 on enhancing the resilience of non-bank financial intermediation (NBFI), including a set of policy proposals to address systemic risk in NBFI and programme of further work. The report describes the main findings to date and next steps in assessing and addressing vulnerabilities in money market funds, open-ended funds, margining practices, bond market liquidity, and cross-border USD funding in emerging market economies (EMEs).

LIQUIDITY REQUIREMENTS

(14/11/2022) EBA – Final technical standards on the measurement of liquidity risks for investment firms

The European Banking Authority (EBA) has published its final Regulatory Technical Standards (RTS) on specific liquidity measurement for investment firms under the Investment Firms Directive (IFD). These RTS will ensure that all competent authorities follow the same harmonised approach when adopting the decision to impose further liquidity requirements to an investment firm. In particular, competent authorities will have to assess: i) all elements specific to each service provided by the investment firm under the Markets in Financial Instruments Directive (MiFID); and ii) other elements that could have a material impact, such as external factors, group structure, operational or reputational risks.

LIQUIDITY RISK MANAGEMENT

(16/11/2022) IOSCO – Thematic Review on Liquidity Risk Management Recommendations

The Board of the International Organization of Securities Commissions (IOSCO) has published a thematic review assessing the implementation of selected recommendations issued in 2018 to strengthen the liquidity risk management practices for collective investment schemes (CIS) globally. The Review found that larger jurisdictions show a high degree of implementation of regulatory requirements consistent with the objectives of the Recommendations. For the CIS design process, the Review identified some challenges with respect to dealing frequency, dealing arrangements and disclosure practices. Additionally, the Review found that responsible entities (i.e., asset managers) have a high degree of implementation of the Recommendations at the level of policies and practices

IQUIDITY METRICS

(18/11/2022) IAIS - Liquidity metrics as an ancillary indicator

The International Association of Insurance Supervisors (IAIS) has published a document on Liquidity metrics as an ancillary indicator. The liquidity metrics serve as a tool to facilitate the IAIS' monitoring of the global insurance industry's liquidity risk and for the IAIS to assess insurers' liquidity exposure from a macroprudential perspective, which may be critical as insurers have been exposed to liquidity shortfalls in previous crises. The liquidity metrics highlight potential vulnerabilities and risk drivers. They are not intended to be a binding regulatory requirement. Rather, they are used as a monitoring tool that is part of the Global Monitoring Exercise (GME) to gather information that will help identify trends in insurer and insurance-sector liquidity.

MONEY MARKET FUNDS

(30/11/2022) ESMA - ESMA updates guidelines on stress tests for money market funds

The European Securities and Markets Authority (ESMA), has published the Final Report on the 2022 update of guidelines on Money Market Funds (MMF) stress tests under the Money Market Funds Regulation (MMFR). The 2022 update of the Guidelines on MMFs stress tests is published in the context of the resurgence of the COVID-19 pandemic, compounded with zero-COVID policies in some regions, uncertainty about the economic consequences of the Russian invasion of Ukraine and geopolitical tensions. The new 2022 parameters set out in the updated Guidelines will have to be used for the purpose of the first reporting period following the start of the application of the updated Guidelines.

SOLVENCY II

(05/12/2022) EIOPA - EIOPA publishes monthly technical information for Solvency II Relevant Risk Free Interest Rate Term Structures – end-November 2022

The European Insurance and Occupational Pensions Authority (EIOPA) has published technical information on the relevant risk-free interest rate term structures (RFR) with reference to the end of November 2022. With this information, EIOPA ensures consistent calculation of technical provisions across Europe.

BENCHMARKING EXERCISE 2024

(08/12/2022) EBA - EBA launches consultation to amend the data collection for the benchmarking exercise in 2024

The European Banking Authority (EBA) has published a consultation paper to amend the Implementing Regulation on the benchmarking of credit risk, market risk and IFRS9 models for the 2024 exercise. The most significant change is the roll out of the data collection for the benchmarking of accounting metrics (IFRS9) to high default portfolios (HDP). For market risk it is proposed to add new templates for the collection of additional information, notably the Default Risk Charge (DRC) and the Residual Risk Add-On (RRAO). For credit risk, only minor changes are proposed. The deadline for the submission of comments is 28 February 2023.

RISK PERSPECTIVE FALL 2022

(08/12/2022) OCC - OCC Reports on Key Risks Facing Federal Banking System

The Office of the Comptroller of the Currency (OCC) has reported the key issues facing the federal banking system in its Semiannual Risk Perspective for Fall 2022. Economic growth slowed sharply in 2022, while high employment rates supported consumer spending and overall bank performance. Banks, in aggregate, remain well capitalized and with ample liquidity and sound credit quality, although macroeconomic headwinds are a concern. The OCC highlighted interest rate, operational, compliance and credit risks, among the key risk themes in the report. The report also highlights the OCC's initiative on climate-related financial risks to the federal banking system and the OCC's careful and cautious approach to crypto assets

SECURITISATION FRAMEWORK

(12/12/2022) EBA - ESAs publish joint advice to the EU Commission on the review of the securitisation prudential framework/ Joint Committee advice on the review of the securitisation prudential framework - Insurance/ Joint Committee advice on the review of the securitisation prudential framework - Banking

The three European Supervisory Authorities (EBA, EIOPA and ESMA – ESAs) has published a joint advice in response to the European Commission's October 2021 call for advice on the review of the securitisation prudential framework. The targeted proposals in the advice aim at improving the consistency and risk sensitivity of the capital framework for banks whereas the liquidity framework for banks and the prudential framework for (re)insurers should be maintained as it currently stands. However, the ESAs believe that re-calibrating the securitisation prudential framework would not be a solution that in itself would ensure the revival of the securitisation market.

Other publications of interest

Capital, liquidity and leverage

CAPITAL REQUIREMENTS

(21/12/2022) EBA - EBA updates list of diversified indices

The European Banking Authority (EBA) has updated the list of diversified indices, originally published in 2013 and previously updated in 2019. The list is part of the implementing technical standards (ITS) drafted to calculate the capital requirements for position risk in equities according to the standardised rules. The list has been updated according to the procedure and methodology laid down in the ITS and submitted to the European Commission for endorsement.

IFRS 9

(21/12/2022) IFRS - IASB publishes its review of classification and measurement requirements relating to financial instruments

The International Accounting Standards Board (IASB) has published its project report and feedback statement concluding the Post-implementation Review (PIR) of the classification and measurement requirements in IFRS 9 Financial Instruments. Feedback from stakeholders and research undertaken as part of the PIR show that the requirements set out in IFRS 9 are working as intended and provide useful information to the users of financial statements.

- **SUSTAINABILITY**

CLIMATE RISKS

(08/12/2022) BCBS - Frequently asked questions on climate-related financial risks

The Basel Committee on Banking Supervision (BCBS) has issued responses to frequently asked questions (FAQs) to clarify how climate-related financial risks may be captured in the existing Basel Framework. These FAQs intend to facilitate a globally consistent interpretation of existing Pillar 1 standards given the unique features of climate-related financial risks and should not be interpreted as changes to the standards. Additionally, these responses are consistent with the Basel Committee's Principles for the effective management and supervision of climate-related financial risks

SUPERVISION OPERATING

(06/10/2022) OCC – OCC Releases Bank Supervision Operating Plan for Fiscal Year 2023

The Office of the Comptroller of the Currency (OCC) has released its bank supervision operating plan for Fiscal Year 2023. The plan provides the foundation for policy initiatives and for supervisory strategies as applied to individual national banks, federal savings associations, federal branches, federal agencies, and technology service providers. The OCC staff uses this plan to guide its supervisory priorities, planning, and resource allocations.

SUPERVISORY BANKING STATISTICS

(07/10/2022) ECB - ECB publishes supervisory banking statistics for the second quarter of 2022

The ECB has published the 2Q aggregated supervisory banking statistics of banks designated as significant institutions (SIs). Some data stand out, for example: i) aggregate Common Equity Tier 1 ratio stable at 14.96% in second quarter of 2022 (compared with 14.99% in previous quarter and 15.60% in the same quarter last year); ii) aggregated annualised return on equity up to 7.62% in second quarter of 2022 (compared with 6.04% in first quarter of 2022 and 6.92% in the same quarter last year) and iii) aggregate non-performing loans ratio fell further to 1.85% (or 2.35% excluding cash balances), down from 1.95% in previous quarter (2.51% respectively), while loans that show a significant increase in credit risk (stage 2 loans) continued to grow, standing at 9.72% (up from 9.28% in previous quarter).

INSURANCE SECTOR OPERATIONAL

(13/10/2022) IAIS – Public Consultation on Issues Paper on Insurance Sector Operational Resilience

The International Associations of Insurances Supervisors (IAIS) has published for consultation its Issues Paper on Insurance Sector Operational Resilience. The paper identifies issues impacting operational resilience in the insurance sector and provides examples of how supervisors are approaching these developments, with consideration of lessons learnt during the Covid-19 pandemic. Recognising that operational resilience is a broad and evolving area, the paper addresses three specific operational resilience sub-topics concerning areas the IAIS considers as matters of significant and increasing operational risk and, therefore, of immediate interest to supervisors: i) Cyber resilience, ii) Third-party outsourcing, and iii) Business continuity management. Feedback on the paper is invited by 6 January 2023.

ENFORCEMENT PRIORITIES

(28/10/2022) ESMA – European enforces focus on Russia's invasion of Ukraine Economic outlook and climate-related disclosure

The European Securities and Markets Authority (ESMA) has issued its annual Public Statement setting out the European common enforcement priorities (ECEP) for the 2022 annual financial reports of issuers admitted to trading on European Economic Area (EEA) regulated markets. This year's priorities cover the impact of Russia's invasion of Ukraine, the macroeconomic environment and climate-related matters in financial and non-financial information. The statement also highlights the importance of comprehensive disclosures pursuant to Article 8 of the Taxonomy Regulation.

IPUS

(07/11/2022) EBA – The EBA clarifies the operationalisation of intermediate EU parent undertakings of third country groups

The European Banking Authority (EBA) has published an Opinion to clarify the framework applicable to the set-up and operationalisation of intermediate EU parent undertakings (IPUs) by third country groups (TCGs) operating in the EU. In particular, the opinion clarifies clarifies the process, as well as the information requirements and the assessment criteria, both from a supervisory and/or resolution perspective, for those cases where the TCG intends to have in place two IPUs and not a single one.

CCPS

(09/12/2022) EC - Derivatives clearing – Review of the European Market Infrastructure Regulation

The European Commission (EC) has published its proposal for a Directive to modify the current framework that applies to EU central counterparties (CCPs) and market participants who use their services. The changes to the framework will aim to make the EU a more attractive clearing hub. They include measures to enhance EU CCPs' liquidity and strengthen the EU's CCP supervisory framework. This adopted act is open for feedback for a minimum period of 8 weeks.

Other publications of interest

Supervision

SYSTEMIC REVIEW IN THE INSURANCE SECTOR

(09/12/2022) FSB/IAIS - FSB endorses an improved framework for the assessment and mitigation of systemic risk in the insurance sector and discontinues annual identification of global systemically important insurers (G-SIIs)/ FSB endorses the IAIS Holistic Framework and discontinues identification of Global Systemically Important Insurers (G-SIIs)

The Financial Stability Board (FSB) has issued in consultation with the International Association of Insurance Supervisors (IAIS) reviewed whether to either discontinue or re-establish an annual identification of global systemically important insurers (G-SIIs). The FSB decided to discontinue the annual identification of G-SIIs. The FSB has also decided that will utilise assessments available through the Holistic Framework to inform its considerations of systemic risk in the insurance sector. The FSB will continue to receive from the IAIS an annual update of the outcomes of its Global Monitoring Exercise, including the IAIS assessment of systemic risk in the global insurance sector, possible concentration of systemic risks at an individual insurer level, and the supervisory response to identified risk. Addittionally, the FSB will from 2023 onwards and every year publish in the FSB's Annual Resolution Report a list of insurers that are subject to resolution planning and resolvability assessments consistent with the FSB Key Attributes of Effective Resolution Regimes for Financial Institutions (KAs).

RISK CONTROL

(20/12/2022) ECB - ECB reviews its risk control framework for credit operations

The European Central Bank (ECB) has announced the results of the review of its risk control framework for collateralised credit operations. Following the review, the ECB decided on several measures to improve the overall consistency of the risk control framework which will take effect from 29 June 2023. The measures include the following: i) increase the valuation haircuts for marketable and non-marketable assets; ii) re-assign debt instruments issued by the European Union (EU bonds); iii) phase out the distinction between jumbo and other covered bonds.

- **SUSTAINABILITY**

ESG RISKS

(24/10/2022) EBA – EBA publishes Report on the integration of ESG risks in the supervision of investment firms

The European Banking Authority (EBA) published a Report on how to incorporate ESG risks in the supervision of investment firms. The Report also provides an initial assessment of how ESG factors and ESG risks could be included in the supervisory assessment of investment firms, covering the main elements of the SREP: i) business model analysis, ii) assessment of internal governance and risk management, and iii) assessment of risks (risk to capital and liquidity risk).

SUSTAINABILITY RISKS

(05/12/2022) EIOPA - EIOPA outlines approaches to assess the prudential treatment of insurers' sustainable assets and activities

The European Insurance and Occupational Pensions Authority (EIOPA) has published its Discussion paper on the Prudential Treatment of Sustainability Risks. The paper focuses on three distinct areas of analysis: i) assets and transition risk exposures; ii) Underwriting risk and climate change adaptation; and iii) Social risks and objectives. Comments to this document can be sent until 5 March 2023.

Banking resolution

(24/10/2022) FDIC – Resolution-Related Resource Requirements for Large Banking Organizations

The Board of Governors of the Federal Reserve System (Board) and Federal Deposit Insurance Corporation (FDIC) have published for public comment an advance notice of proposed rulemaking to solicit public input regarding whether an extra layer of loss-absorbing capacity could improve optionality in resolving a large banking organization or its insured depository institution, and the costs and benefits of such a requirement. This may, among other things, address financial stability by limiting contagion risk through the reduction in the likelihood of uninsured depositors suffering loss, and keep various resolution options open for the FDIC to resolve a firm in a way that minimizes the long term risk to financial stability and preserves optionality

MREL

(04/11/2022) SRB – Single Resolution Board publishes MREL dashboard Q2.2022

The Single Resolution Board (SRB) has published its minimum requirement for own funds and eligible liabilities (MREL) dashboard for Q2.2022. The dashboard provides more transparency by category of bank and resolution strategy. The first section of the dashboard focuses on the evolution of MREL targets for resolution entities and non-resolution entities, the level and the quality of stock of MREL instruments and shortfalls in Q2.2022. The second section highlights recent developments in the cost of funding and provides an overview of gross issuances of MREL instruments in Q2.2022.

Resolvability testing

(15/11/2022) EBA – EBA consults on Guidelines to institutions and resolution authorities on resolvability testing

The European Banking Authority (EBA) has launched a public consultation on its draft Guidelines addressed to institutions and resolution authorities on resolvability testing. The Guidelines aim to set-out a framework to ensure that resolvability capabilities developed to comply with the resolvability and transferability Guidelines are fit for purpose and effectively maintained. Particularly, Guidelines are proposing that authorities develop multi-annual testing programme so as to gain assurance of firms' resolvability while providing sufficient visibility to banks. Additionally, for the most complex banks, the Guidelines are proposing to have them develop a master playbook to ensure a holistic approach to resolution planning. The consultation runs until 15 February 2023.

CCPs

(17/11/2022) ESMA - Guidelines on resolvability/ Guidelines on cooperation arrangements for central counterparties

The European Securities and Markets Authority (ESMA) has published two Final Reports. The first report includes the Guidelines on the assessment of resolvability, which set out common aspects to be assessed by resolution authorities when evaluating the extent to which a central counterparties (CCP) may be resolved without relying on certain types of external financial support . On the other hand, ESMA published Guidelines on the CCPs Resolution Regime under the CCP Recovery and Resolution Regulation (CCPRRR). These guidelines specifies provisions to be included in cooperation arrangements that shall be entered into between competent or resolution authorities and third-country authorities.

Progress in resolution and resolvability

(08/12/2022) FSB - FSB calls for urgent work to address cross-border resolution challenges in the non-bank sector

The Financial Stability Board (FSB) has published its 2022 Resolution Report. The report takes stock of progress made by FSB members in implementing resolution reforms and enhancing resolvability across the banking, financial market infrastructure, and insurance sectors. The report notes that while a lot of progress in resolvability has been made in the banking sector, multiple challenges ahead and sustained progress requires the continued commitment of authorities and firms. In particular, the largest cross-border resolution challenges that need to be addressed with some urgency remain in the non-bank sector (comprising investment funds, insurance companies, pension funds and other financial intermediaries).

Resolution plans

(16/12/2022) Fed/FDIC - Agencies announce results of resolution plan review for certain domestic and foreign banks

The Federal Reserve Board (Fed) and the Federal Deposit Insurance Corporation (FDIC) have announced the results of their joint review of the resolution plans for 71 domestic and foreign banking organizations. Resolution plans must describe a financial company's strategy for rapid and orderly resolution in bankruptcy in the event of its material financial distress or failure. The agencies identified deficiencies in the 2021 plan submission of two financial institutions. However, as previously jointly announced in September, the agencies anticipate issuing guidance to help certain large banking organizations further develop their resolution plans.

Other publications of interest

Government

INSURING AND REINSURING SUPERVISION

(12/10/2022) EIOPA – EIOPA evaluates progress on supervising the propriety of (re)insurers' administrative, management and supervisory body members and qualifying shareholders

The European Insurance and Occupational Pensions Authority (EIOPA) has published a follow-up report to the 2019 peer review on the propriety assessment of administrative, management and supervisory body (AMSB) members and qualifying shareholders across the European Economic Area. The follow-up report assesses how national competent authorities (NCAs) have implemented the actions recommended in the original peer review. Sixteen out of seventeen NCAs have already fully implemented the measures recommended to them by EIOPA.

REMUNERATION

(19/12/2022) PRA/FCA – CP15/22 – Remuneration: Ratio between fixed and variable components of total remuneration ('bonus cap')

The Prudential Regulation Authority (PRA) and the Financial Conduct Authority (FCA) have published a Consultation Paper (CP) which sets out its proposed changes to the current requirements concerning the ratio between fixed and variable components of total remuneration (the 'bonus cap'). Particularly, it would remove the current limits on the ratio between fixed and variable components with the aim of strengthening the effectiveness of the remuneration regime by increasing the proportion of compensation at risk that can be subject to the incentive setting tools within the remuneration framework (including deferral, payments in instruments, and risk adjustment). The proposed changes resulting from this CP would come into force the next calendar day after the publication of the final policy –anticipated for Q2 2023 - and would apply to firms' performance year starting after that (so for most firms that is likely to be performance years starting 2024). This consultation closes on 31 March 2023

Other publications of interest

Reporting and disclosure

EBA's reporting framework

(03/10/2022) EBA – EBA releases the technical package for phase 3 of its 3.2 reporting framework

The European Banking Authority (EBA) has published the technical package for phase 3 of version 3.2 of its reporting framework. The technical package supports the implementation of the updated reporting framework by providing standard specifications and includes the validation rules, the Data Point Model (DPM) and the XBRL taxonomies for version 3.2. In particular, COREP, Asset Encumbrance, G-SII, and Additional liquidity monitoring metrics (ALMM) is delayed to June 2023 with no content modifications. And as a novelty, there are new and amended reporting requirements for investment firms and credit institutions.

Central Credit Registry

(03/10/2022) BdE – Proyecto de Circular del Banco de España, por la que se modifica la Circular 1/2013, de 24 de mayo, del Banco de España, sobre la Central de Información de Riesgos

The Banco de España (BdE) has published the draft Circular amending the Circular on the Central Credit Register to adapt it to the changes introduced by Order EDT 600/2022. This Circular does not modify the content of the Order, but it does modify the dates on which it will enter into force. Thus, January 2023 is the date on which institutions must individually report the data of all holders, including those of their transactions, whose cumulative risk at the reporting institution is equal to or greater than 3,000 euros, and January 2027 is the date from which institutions must individually report the data of all holders, including those of their transactions, whose cumulative risk at the reporting institution is equal to or greater than 1,000 euros.

Risk Dashboard

(06/10/2022) EC – EBA risk dashboard decline slightly

The European Banking Authority (EBA) has published its quarterly Risk Dashboard covering the main risks and vulnerabilities in the EU banking sector. Between the most relevant figures, the average CET1 fully loaded ratio remained unchanged at 15%. Overall, banks reported robust liquidity ratios with the average liquidity coverage ratio (LCR) reaching 164.9% and the net stable funding ratio (NSFR) standing at 126.9%Furthermore, European banks' return on equity (RoE) stood at 7.9% (6.7% in Q1 2022).

Non-compliance with statistical reporting

(10/10/2022) ECB – Regulation 2022/1917/ Decision (EU) 2022/1921

The European Central Bank (ECB) has published a Regulation which establishes a harmonised framework in which sanctions may be imposed on reporting agents for non-compliance with statistical reporting requirements laid down by ECB regulations and decisions. In particular, it establishes the scope of monitoring of compliance by the reporting agents with those requirements and defines the following procedures to be applied by the competent Eurosystem central bank: i) monitoring and recording procedure; ii) reporting procedure; iii) notification procedure; iv) endorsement and implementation of a remedial plan ;v) infringement procedure. Along with this Regulation the ECB has published the Decision on the methodology for the calculation of sanctions for alleged infringements of statistical reporting requirements. Both documents shall apply generally on 30 April 2024.

Accounting standards, annual accounts and financial standards

(25/10/2022) CNMV – Consulta pública relativa al proyecto de nueva circular sobre normas contables, cuentas anuales y estados financieros intermedios de las infraestructuras de mercado

The Comisión Nacional del Mercado de Valores (CNMV) submits for public consultation the draft of the new Circular on accounting standards, annual accounts and interim financial statements of market infrastructures. This new circular includes certain new features with the aim of simplifying and updating the obligations, accounting rules and financial and activity statements, taking into account the applicable regulations in force, eliminating unnecessary redundancies and adapting them to the new reality of Spanish infrastructures.

Investment reporting

(26/10/2022) SEC – Tailored Shareholder Reports, Treatment of Annual Prospectus Updates for Existing Investors, and Improved Fee and Risk Disclosure for Mutual Funds and Exchange-Traded Funds; Fee Information in Investment Company Advertisements

The Securities and Exchange Commission (SEC) is adopting rule and form amendments that require open-end management investment companies to transmit concise and visually engaging annual and semi-annual reports to shareholders that highlight key information that is particularly important for retail investors to assess and monitor their fund investments. Certain information that may be more relevant to financial professionals and investors who desire more in-depth information will no longer appear in funds' shareholder reports but will be available online, delivered free of charge upon request, and filed on a semi-annual basis on Form N-CSR.

Other publications of interest

Reporting and disclosure

PENSION PROVIDERS

(01/11/2022) FCA – PS22/12: Pensions Dashboards rules for pension providers

The Financial Conduct Authority (FCA) has set out final rules and guidance requiring FCA regulated pension providers to provide and enable information about personal and stakeholder pensions for pensions dashboards. This rules require that FCA regulated pension providers must: i) complete connection to the digital architecture operated by the pensions dashboard programme; ii) be ready to receive requests to find pensions, and search records for data matches; iii) be ready to return pensions information to the consumer's chosen pensions dashboard.

EU-WIDE STRESS TEST

(04/11/2022) EBA – EBA publishes methodology and draft templates for the 2023 EU-wide stress test

The European Banking Authority (EBA) has published the final methodology, draft templates and template guidance for the 2023 EU-wide stress test along with the milestone dates for the exercise. The methodology and templates cover all relevant risk areas and have considered the feedback received from industry. The stress test exercise will be launched in January 2023 with the publication of the macroeconomic scenarios and the results will be published by the end of July 2023.

SOLVENCY II

(07/11/2022) BoE – CP14/22 - Review of Solvency II: Reporting phase 2

The Bank of England (BoE) has released a Consultation Paper (CP) that sets out the Prudential Regulation Authority's (PRA) proposals to streamline significantly a number of current Solvency II reporting and disclosure requirements for insurers, and to improve the collection of data in a small number of areas where reporting is currently not tailored appropriately to the features of the UK insurance sector, or to the PRA's supervisory needs. The PRA considers that the proposals would allow it to continue to meet its statutory objectives while reducing ongoing reporting costs for firms, thereby improving competitiveness and proportionality.

(04/11/2022) EIOPA – Risk Dashboard indicates overall resilience among insurers even amid high macro and market risks

The European Insurance and Occupational Pensions Authority (EIOPA) has published its Risk Dashboard based on Solvency II data from the second quarter of 2022. The results show that insurers' exposures to macro and market risks are currently the main concern for the insurance sector. All other risk categories, such as profitability and solvency, climate as well as digitalisation and cyber risks stay at medium levels. On climate risks, insurers maintained their relative exposure to green bonds while the ratio of investments in green bonds over the total green bond outstanding slightly decreased.

TRANSPARENCY

(14/11/2022) IOSCO – IOSCO Statement on Financial Reporting and Disclosure during Economic Uncertainty

The Board of the International Organization of Securities Commissions (IOSCO) has issued a public statement encouraging issuers, external auditors, as well as audit committees (or those charged with governance) to be particularly vigilant in times of economic uncertainty in their consideration of how risks and uncertainties that could affect or have affected an issuer's operations, financial condition, cash flows and prospects can be transparently communicated to investors.

PRIIPS REGULATION

(09/12/2022) UK.Govertment - PRIIPs and UK Retail Disclosure

The UK Government has published a consultation which sets out the government's plans to revoke the Packaged Retail and Insurance-based Investment Products (PRIIPs) Regulation and seeks views on a proposed alternative framework for retail disclosure, as part of the implementation of the Future Regulatory Framework (FRF) Review. In line with the FRF, the Financial Conduct Authority (FCA) will be responsible for setting detailed disclosure rules. Within the document the Government sets out the key issues that the government has identified with the PRIIPs Regulation and outlines a new direction for retail disclosure, designed to address each of the issues.

- **VALIDATION RULES**

(12/12/2022) EBA - EBA issues revised list of ITS validation rules

The European Banking Authority (EBA) has issued a revised list of validation rules for its reporting standards (Implementing Technical Standards, Regulatory Technical Standards and Guidelines), 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 reporting standards should not be formally validated against the set of deactivated rules.

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NPL

(16/12/2022) EBA - EBA standardises information requirements to support sales and transfers of non-performing loans

The European Banking Authority (EBA) has published its final draft Implementing Technical Standards (ITS) specifying the requirements for the information that credit institutions selling NPL shall provide to prospective buyers. The objective of the draft ITS is to provide a common data standard for the NPL sales or transfers across the EU enabling cross-country comparison and thus reducing information asymmetries between the sellers and buyers of NPL, thus improving the functioning of NPL secondary markets. These draft ITS have been submitted to the European Commission for adoption.

EMIR

(20/12/2022) ESMA - ESMA publishes guidelines and technical documentation on reporting under EMIR refit

The European Securities and Markets Authority (ESMA) has published a report in which it clarifies the legal provisions on reporting and data management under the amended EMIR rules and providing practical guidance on their implementation. The Guidelines provide clarifications on: i) transition to reporting under the new rules; ii) the number of reportable derivatives; iii) intragroup derivatives exemption from reporting; iv) delegation of reporting and allocation of responsibility for reporting; v) reporting logic and the population of reporting fields.

UCITS/AIMFD

(21/12/2022) ESMA – ESMA publishes technical standards on cross-border activities under the UCITS directive and the AIMFD

The European Securities and Markets Authority (ESMA) has published a final report specifying the information to be provided, and the templates to be used, to inform competent authorities of the cross-border marketing and management of investment funds and the cross-border provision of services by fund managers.

- **SUSTAINABILITY**

EU TAXONOMY

(06/10/2022) EC – Commission Notice on the interpretation of certain legal provisions of the Disclosures Delegated Act under Article 8 of EU Taxonomy Regulation on the reporting of eligible economic activities and assets

The European Commission (EC) has published a frequently asked questions document which seeks to clarify the content of the delegated act on disclosure of information under Article 8 of the EU Taxonomy Regulation in order to support its application by assisting financial and non-financial undertakings in applying the relevant legal provisions. The document only clarifies provisions already contained in existing legislation and does not introduce additional requirements for the operators concerned and the competent authorities.

(12/10/2022) PSF – Platform Recommendations on Data and Usability

The Platform on Sustainable Finance (PSF) has published a Report on data and usability of the EU Taxonomy. The report contains a detailed overview of the first implementation phase of the taxonomy by economic operators and across financial markets. It also includes specific recommendations for targeted adjustments to enhance the usability of the taxonomy and improve the coherence of the broader sustainable finance framework. The report does not constitute guidance for market participants or legal interpretation of the rules, but it provides input to the European Commission and the European Supervisory Authorities on the implementation issues of the EU taxonomy standards and disclosure requirements.

Other publications of interest

Reporting and disclosure

(13/10/2022) PSF – Final report on minimum safeguards

The Platform on Sustainable Finance (PSF) has published its Final Report on Minimum Safeguards relative to october 2022. This report advises on the application of minimum safeguards (MS) in relation to the Taxonomy Regulation (TR). It does so by i) embedding MS in existing EU regulation, ii) identifying substantive topics relating to the standards and norms referenced in TR and iii) presenting advice on compliance with MS. When exploring the links between MS and EU legislation, the report focuses on the existing Sustainable Finance Disclosure Regulation (SFDR), the Corporate Sustainability Reporting Directive (CSRD), and the upcoming Corporate Sustainability Due Diligence Directive (CSDDD).

Pillar 3 ESG

(17/10/2022) EBA – EBA issues an Opinion in response to the European Commission's proposed amendments to the EBA final draft technical standards on Pillar 3 disclosures on ESG risks

The European Banking Authority (EBA) has published an Opinion on the amendments proposed by the European Commission (EC) to the EBA final draft Implementing Technical Standards (ITS) on prudential disclosures of environmental, social and governance (ESG) information. The EC proposed changes to how the banking book taxonomy alignment ratio (BTAR) should be disclosed by institutions in order to enhance proportionality. The EBA recognizes the importance of proportionality and accepts the proposal of the EC, but it also insists that institutions should make every effort to collect and disclose the very relevant information reflected in the BTAR.

CSRD

(10/11/2022) EP – Sustainable economy: Parliament adopts new reporting rules for multinationals

The European Parliament, following the established legislative process, has adopted the Corporate Sustainability Reporting Directive (CSRD) adding several modifications to the text proposed by the EC. After this, the Council is expected to adopt the proposal of the Parliament on 28 November, prior to its subsequent signature and publication in the EU Official Journal. The Directive will enter into force 20 days after publication and will start applying between 2024 and 2022.

SFDR

(18/11/2022) ESAs – Final Report on SFDR amendments for nuclear and gas activities

The three European Supervisory Authorities (EBA, EIOPA and ESMA – ESAs) have published the Final draft RTS on the amendments to the Sustainable Finance Disclosure Regulation (SFDR) Delegated Regulation covering nuclear and fossil gas. ESAs were mandated to propose amendments in relation to the information that should be provided in pre-contractual documents, on website and in periodic reports about the exposure of financial products to investments in fossil gas and nuclear energy activities. The ESAs have left it to the Commission to include the expected application date in the SFDR Delegated Regulation.

Sustainability reporting standards

(23/11/2022) EFRAG - EFRAG delivers the first set of draft ESRS to the European Commission

The European Financial Reporting Advisory Group (EFRAG), after the editorial review conducted by the Sustainability Reporting Board (SRB), has submitted the first set of draft European Sustainability Reporting Standards (ESRS) to the European Commission. Some minor changes to the draft documents published earlier this month have been implemented. Additionally, the EGRAG has accompanied this publication with a Due process note setting out the process applied and the main differences between the exposure drafts and the draft ESRS, and an Explanatory note, including its Annex, of how draft ESRS take account of the initiatives and legislation of the CSRD. The European Commission will now consult EU bodies and Member States on the draft standards, before adopting the final standards as delegated acts in June 2023. This regulation will start to apply in general terms from 2025 with baseline data for the financial year 2024. Listed SMEs are obliged to report as from 2026, with a further possibility of voluntary opt-out until 2028, and will be able to report according to separate, proportionate standards that EFRAG will develop next year (sector specific standards).

Climate-related insurance

(05/12/2022) EIOPA - EIOPA's dashboard identifies the European natural catastrophe insurance protection gap

The European Insurance and Occupational Pensions Authority (EIOPA) has released its dashboard, which depicts the insurance protection gap for natural catastrophes across Europe. This tool is the first dashboard which presents the drivers of a climate-related insurance protection gap to identify measures that will help in decreasing society's losses in the event of natural catastrophes in Europe. The dashboard brings together data on economic and insured losses, risk estimations as well as insurance coverage from 30 European countries. It presents the data in four different views: i) current view; ii) historical view; iii) country view; and iv) country insurance view.

Other publications of interest

Reporting and disclosure

SUSTAINABILITY DISCLOSURE

(15/12/2022) ISSB - ISSB announces guidance and reliefs to support Scope 3 GHG emission disclosures

The International Sustainability Standards Board (ISSB) has agreed to set out a framework in S2 (Climate-related Disclosures) for the measurement of Scope 3 GHG emissions that will require the use of reasonable and supportable information that is available without undue cost or effort and incorporates the use of estimation. A company's use of this framework would be accompanied by disclosures to enable investors to understand the basis for measurement of Scope 3 GHG emissions. The ISSB also agreed to confirm and refine proposed requirements for financed emissions, intended to support preparers in the financial sector with the measurement and disclosure of emissions associated with their portfolios.

ESG

(20/12/2022) EC - Commission Implementing Regulation (EU) 2022/2453 of 30 November 2022 amending the implementing technical standards laid down in Implementing Regulation (EU) 2021/637 as regards the disclosure of environmental, social and governance risks (Text with EEA relevance)

The European Commission (EC) has published its Implementing Regulation amending its previous regulation (Implementing Regulation (EU) 2021/637) regarding the disclosures required under CRR II, which requires large institutions that have issued securities that are admitted to trading on a regulated market of any Member State to disclose, as from 28 June 2022, information on ESG risks, including physical risks and transition risks. This amendment has been now also included in the EC Implementing Regulation (EU) 2021/637 through different amendments, which should set out, in addition to the existing uniform disclosure formats and associated instructions, additional uniform disclosure formats and associated instructions for the disclosures of ESG risks.

Other publications of interest

Compliance

FUNDS TRANSFERS REGULATION

(21/10/2022) EBA – EBA launches call for interest for two expert groups and a call for input to advise on its work under the recast Funds Transfers Regulation

The European Banking Authority (EBA) has issued a call for expression of interest to join two Technical Expert Groups – on crypto assets service providers and anti-money laundering and countering the financing of terrorism (TEG-CASPs/AML), and on restrictive measures regimes (TEG-RMRs) – and a call for input on the Joint Guidelines to prevent the abuse of fund transfers for ML/TF purposes issued in 2017 by the European Supervisory Authorities (ESAs). These will provide technical advice to the EBA on those aspects of the revised Regulation on information accompanying transfers of funds (TFR) that relate to the EBA's mandates.

MIFID II

(26/10/2022) ESMA – SMSG advice in respect of the ESMA Consultation Paper on the Review of the Guidelines on MiFID II product governance requirements

The Securities and Market Stakeholders Group (SMSG) has launched an advice in respect of the European Securities Markets Authority (ESMA) Consultation Paper on the Review of the Guidelines on MiFID II product governance requirements. In general, the SMSG is of the opinion that the revised guidelines are balanced, fairly reflect and elaborate on the changes in Level 1 and Level 2 texts, and adequately deal with the results of the 2021 Common Supervisory Action on MiFID II Product Governance Requirements.

INVESTMENT ADVISERS

(27/10/2022) SEC – Outsourcing by investment advisers

The Securities and Exchange Commission (SEC) is proposing a new ruleto prohibit registered investment advisers from outsourcing certain services or functions without first meeting minimum requirements. The proposed rule would require advisers to conduct due diligence prior to engaging a service provider to perform certain services or functions. It would further require advisers to periodically monitor the performance and reassess the retention of the service provider in accordance with due diligence requirements to reasonably determine that it is appropriate to continue to outsource those services or functions to that service provider.

MIFID II

(17/11/2022) ESMA - ESMA consults on rules for passporting for investment firms

The European Securities and Markets Authority (ESMA) has launched a consultation on the review of the technical standards under Article 34 of the Markets in Financial Instruments Directive (MiFID II), covering the provision of investment services across the EU. The main amendments proposed add the different items to the information that investment firms are required to provide at the passporting stage e.g the investment firm's internal organisation in relation to the cross-border activities of the firm. The consultation closes on 17 February 2023. ESMA will consider the feedback it receives to the consultation in Q2 2023 and expects to publish a final report by the end of 2023.

CUSTOMER PROTECTION

(18/11/2022) MINECO. Spain - El Gobierno crea la Autoridad de Defensa del Cliente Financiero para reforzar la protección de los clientes

The Council of Ministers has approved the draft Law on the Financial Customer Protection Authority, which will be sent to Parliament. This bill will increase the protection of citizens as financial customers, who will be able to submit their complaints free of charge in the banking, insurance and financial investment fields to a single body, which will result in a better analysis of conflicts and a faster service.

AML/CFT

(06/12/2022) EBA - EBA consults on new Guidelines to tackle de-risking

The European Banking Authority (EBA) has launched a public consultation on new Guidelines on the effective management of money laundering and terrorist financing (ML/TF) risks when providing access to financial services. Through these Guidelines, the EBA aims to ensure that customers, especially the most vulnerable ones, are not denied access to financial services without valid reason. This consultation runs until 6 February 2023.

- **SUSTAINABILITY**

MINIMUM SAFEGUARD

Other publications of interest

Compliance

CONSUMER CREDIT ACT

(09/12/2022) UK.Govertment - Reform of the Consumer Credit Act: consultation

The UK Government has published a consultation on the reform of the Consumer Credit Act 1974 (CCA). This is the first phase of the reform of the CCA, which due to its scale and complexity the Government expects to take several years. The consultation seeks input on the strategic direction of reform, as well as on how the regulatory environment for consumer credit could be changed to ensure optimal functioning of regulation around customer communication, consumer protection and sanctions for non-compliance with regulatory standards. Other questions relate to how this reform should address credit accessibility and financial inclusion. The consultation period is open until 7 March 2023.

CONSUMER CREDIT ACT

(14/12/2022) ESMA - ESMA provides guidance for supervision of cross-border activities of investment firms

The European Securities and Markets Authority (ESMA) has published a Supervisory Briefing to ensure convergence across the EU in the supervision of the cross-border activities of investment firms. It covers the following areas: i) authorisation of firms with cross-border plans; i) processing of passport notifications and their impact on the supervisory approach applied to firms; ii) arrangements in place to carry out ongoing supervisory activities; iii) carrying out of ongoing supervision; and iv) carrying out of investigations and inspections.

MARKET TRANSPARENCY

(20/12/2022) Council - MIFIR revision/ MIFID II revision

The Council has agreed on a mandate to start negotiations with the European Parliament concerning a review of the Markets in Financial Instruments Regulation (MIFIR) and of the second Markets in Financial Instruments Directive (MiFID II'). The priorities for this review are to improve transparency and availability of market data, improve the level-playing field between execution venues and ensure that EU market infrastructures can remain competitive at international level. On the basis of this mandate, negotiations with the European Parliament can begin with a view to reaching a final agreement on the future legislation. This proposal will make EU market infrastructures more robust. Proposed amendments will also increase market liquidity, making it easier for companies to get funding from capital markets.

Other publications of interest

Technology

CRYPTOASSETS

(03/10/2022) FSOC – Report on digital asset financial stability risks and regulation

The Financial Stability Oversight Council (FSOC) has published a report related to the different digital assets regulation and the potential risks that could have on financial stability. The report identifies gaps in the regulation of cryptoassets and makes a number of recommendations in this regard, including the consideration of regulatory principles and continued enforcement of the existing regulatory structure.

CYBERSECURITY

(06/10/2022) FFIEC – Cybersecurity: 2022 Cybersecurity Resource Guide for Financial Institutions

The Federal Financial Institutions Examination Council (FFIEC) has issued an update to the cybersecurity resource guide for financial institutions. The guide lists voluntary programs and actionable initiatives that are designed for or are available to help financial institutions meet their security control objectives and prepare to respond to cyber incidents.

AI AND MACHINE

(13/10/2022) BoE – DP5/22 - Artificial Intelligence and Machine Learning

The Bank of England (BoE) has released a Discussion Paper (DP) on Artificial Intelligence and Machine Learning. The BoE considers that Artificial intelligence (AI) and machine learning (ML) are rapidly developing technologies that have the potential to transform financial services, however AI can pose novel challenges, as well as create new regulatory risks, or amplify existing ones. Taking this into account, the DP aims to further the supervisory authorities understanding and to deepen dialogue on how AI may affect our respective objectives.

CIBERSECURITY

(17/10/2022) FSB – Competent authorities have applied a risk-based approach to the supervision of ICT risk management, the EBA analysis suggests

The Financial Stability Board (FSB) has published a consultative document on Achieving Greater Convergence in Cyber Incident Reporting. The proposal include: i) recommendations to address the challenges to achieving greater convergence in cyber incident reporting; ii) further work on establishing common terminologies related to cyber incidents; iii) proposal to develop of a common format for incident reporting exchange (FIRE). Comments to this consultation document can be sent before 31 December.

ICT RISK

(17/10/2022) EBA – Competent authorities have applied a risk-based approach to the supervision of ICT risk management, the EBA analysis suggests

The European Banking Authority (EBA) has published the conclusion of its peer review of how competent authorities supervise institutions' ICT risk management and have implemented the EBA Guidelines on ICT risk assessment under the supervisory review and evaluation process (SREP). Overall, the analysis suggests that EU competent authorities have largely implemented the EBA Guidelines and applied them in their supervisory practices. Furthermore, the EBA has not identified any significant concerns regarding the supervisory practices but makes some general recommendations to further strengthen supervisory practices.

TARGET2

(20/10/2022) ECB – Eurosystem reschedules start of renewed wholesale payment system

The European Central Bank (ECB) has decided to reschedule the launch of the new real-time gross settlement (RTGS) system and its central liquidity management model, TARGET2, therefore it has been postponed by four months, from 21 November 2022 to 20 March 2023. The decision, was driven by the need to allow users more time to complete their testing in a stable environment.

FINANCIAL TECHNOLOGY

(27/10/2022) OCC – OCC Announces Office of Financial Technology

The Office of the Comptroller of the Currency (OCC) has announced that it will establish an Office of Financial Technology early next year to bolster the agency's expertise and ability to adapt to a rapidly changing banking landscape. The Office of Financial Technology will be led a by a Chief Financial Technology Officer, who will be a Deputy Comptroller reporting to the Senior Deputy Comptroller for Bank Supervision Policy. The office will provide strategic leadership, vision, and perspective for the OCC's financial technology activities and related supervision.

Other publications of interest

Technology

BIG TECH FIRMS'

(25/10/2022) FCA – The potential competition impacts of Big Tech entry and expansion in retail financial services

The Financial Conduct Authority (FCA) has released a Discussion Paper (DP) on the potential benefits and harms that may arise from Big Tech firms' entry and expansion into retail financial services sectors. Big Tech firms' presence in UK financial services markets has been increasing and has the potential to grow quickly. Given the potential implications for consumers and competition, the FCA wants to better understand the emerging risks and opportunities to ensure that benefits to consumers are harnessed and important harms mitigated.

CBDC

(26/10/2022) BIS – BIS and four central banks complete successful pilot of real-value transactions on cross-border CBDC platform

The Bank for International Settlements (BIS) and four central banks have completed a successful pilot of the use of central bank digital currencies (CBDCs) by commercial banks for real-value transactions across borders, as part of Project mBridge. Twenty banks in Hong Kong SAR, Thailand, mainland China and the United Arab Emirates used the mBridge platform to conduct 164 payment and foreign exchange transactions totalling over $22 million. The pilot advances multi-CBDC experimentation by settling real value directly on the platform..

INSTANT PAYMENTS

(26/10/2022) EC – Payments: Commission proposes to accelerate the rollout of instant payments in euro

The Commission has today adopted a legislative proposal to make instant payments in euro, available to all citizens and businesses holding a bank account in the EU and in European Economic Area (EEA) countries. Instant payments allow people to transfer money at any time of any day within ten seconds. Nevertheless, at the beginning of 2022, only 11% of all euro credit transfers in the EU were instant. The proposal aims to ensure that instant payments in euro are affordable, secure, and processed without hindrance across the EU. It also aims to remove the barriers that prevent instant payments and their benefits to become more widespread.

CIBERSECURITY

(10/11/2022) EP – Digital finance: Digital Operational Resilience Act (DORA) adoption/ NIS 2 adoption

The European Parliament, following the established legislative process, has adopted two legislative proposals that strengthen EU cybersecurity in key sectors: the Regulation on digital operational resilience for the financial sector (DORA) and the Directive on measures to achieve a high common level of cybersecurity across the Union (NIS 2 Directive). Following the approval of both texts, the Council is expected to adopt them before their subsequent signature and publication in the Official Journal of the EU. Member States will have 21 months to implement the NIS 2 Directive from its adoption.

CROSS-BORDER PAYMENTS

(17/11/2022) FSB – Developing the Implementation Approach for the Cross-Border Payments Targets: Final report

The Financial Stability Board (FSB) has published a final report providing an update on the FSB's framework for monitoring progress toward the targets for the G20 Roadmap for Enhancing Cross-border Payments. This analyses was initially set out in an interim report, published in July 2022. The final report provides a high-level overview of the main data sources; a more detailed discussion of each KPI and, when able, the data underlying its calculation, including material gaps; the approach to operationalising the monitoring exercise; and next steps. In developing the monitoring framework, the FSB has adopted adjustments to the definitions of the wholesale and retail market segments.

CIBERSECURITY

(18/11/2022) EIOPA - EIOPA consults on cyber component in its insurance stress testing framework

The European Insurance and Occupational Pensions Authority (EIOPA) has published a Discussion Paper which contains a set of theoretical and practical approaches to support the design phase of potential future insurance stress tests with a focus on cyber risk. EIOPA aims at laying the groundwork for an assessment of insurers' financial resilience under severe but plausible cyber incident scenarios. Comments to this paper can be sent before 28 February 2023.

Other publications of interest

Technology

CIBERSECURITY

(18/11/2022) Council of the EU - Cybersecurity at the EU institutions, bodies, offices and agencies: Council adopts its position on common rules

The Council of the EU has adopted its position on a draft regulation aimed at ensuring a high common level of cybersecurity across the EU institutions, bodies, offices and agencies. The measures were proposed by the Commission in March 2022 and the Council has lended its general support to its key elements. At the same time, the Council has further aligned some elements of the draft regulation with the future directive on measures for a high common level of cybersecurity across the EU ('NIS 2' Directive).

(29/11/2022) BIS/IOSCO - CPMI and IOSCO report on financial market infrastructures

The Bank for International Settlements' Committee on Payments and Market Infrastructures (CPMI) and the International Organization of Securities Commissions (IOSCO) have published an assessment of the state of cyber resilience (as of February 2021) at 37 financial market infrastructure (FMIs) from 29 jurisdictions that participated in this exercise in 2020–22. The report finds: i) reasonably high adoption of the Guidance on cyber resilience for financial market infrastructures (Cyber Guidance); ii) serious issue of concern relating to a small number of FMIs not fully meeting expectations regarding the development of cyber response; iii) lack of cyber resilience testing after major system changes; and iv) lack of comprehensive scenario-based testing; and v) inadequate involvement of relevant stakeholders in testing.

CRYPTOASSETS

(19/12/2022) BCBS - Prudential treatment of cryptoasset exposures

The Basel Committee on Banking Supervision (BCBS) has published its final standard on the Prudential treatment of cryptoasset exposures, following two rounds of public consultation. The standard has been developed to provide a global baseline framework for banks' cryptoasset exposures that promotes responsible innovation while preserving financial stability. To determine the prudential classifications, cryptoassets will be categorised into two broad groups: i) Group 1 consist of qualifying tokenised assets and stablecoins. They will generally be subject to the risk-based capital requirements of the existing Basel capital framework. ii) Group 2 are cryptoassets that fail to meet all of the Group 1 classification conditions. These cryptoassets will be subject to a more conservative capital treatment.

Other publications of interest

Others

NON-EU ENTITIES

(03/10/2022) EBA - EBA assesses the market share of non-EU entities in the EU banking system and the dependency of EU banks on funding in foreign currencies

The European Banking Authority (EBA) has published a Report on the reliance of the EU financial sector on counterparties, operators, and financing originating from outside the Single Market. As of June 2021, 360 banks controlled by non-EU entities were operating in the EU representing 12% of the Union's total banking assets. At the same time, EU banks had, on average, 19% of their total funding denominated in significant foreign currencies. These findings reflect the high degree of openness of the EU economy within the global financial system. While raising funding from non-EU sources brings opportunities, it may create vulnerabilities in some areas. Against this background, matching foreign currency assets with liabilities denominated in the same currency is generally considered prudent risk management.

DEBIT CARD TRANSACTIONS

(03/10/2022) FED – Federal Reserve Board finalizes updates to the Board's rule concerning debit card transactions

The Federal Reserve Board (FED) has finalized updates to rule concerning debit card transactions. The final rule underscores that debit card issuers should enable at least two unaffiliated networks to process debit card transactions and it aims to encourage competition between networks and incentivize them to improve their fraud-prevention capabilities. This final rule will be effective on 1 July 2023.

SOLO-REGULATED FIRMS

(03/10/2022) FCA – CP22/19: Creation of a baseline financial resilience regulatory return

The Financial Conduct Authority (FCA) has published a consultation paper (CP) in order to make some changes to the data collection for solo-regulated firms. The data collected give the FCA a baseline set of financial resilience information and the changes proposed would move this data collection onto RegData (platform on regulatory data), with the aim of reducing the administrative and financial burden and in order to increase the quality and consistency of financial resilience data. Comments to this document can be submitted before 2 December 2022.

HIGH-COST LENDING

(06/10/2022) FCA – FCA strategy for firms providing high-cost lending products

The Financial Conduct Authority (FCA) has published a letter regarding its strategy for firms providing high-cost lending products. This letter sets out FCA's updated view on the key risks of harm that high-cost firms pose to their customers and the markets in which they operate. In addition, this firms will need to start preparing for implementation of the Consumer Duty, which becomes effective from 31 July 2023.

INDICATORS

(10/10/2022) EMMI - Launch of EFTERM®

The European Money Markets Institute (EMMI) has announced the launch of EFTERM® on 14 November 2022. This new fallback rate will help EURIBOR® users to comply with the relevant legal requirements under the EU Benchmarks Regulation. The Efterm® Governance Framework published, entails three documents:i) the Efterm® Governance Code of Conduct, setting out all governance, control, and accountability frameworks for the provision of Efterm®; ii) the Efterm® Code of Obligations of the Calculation Agent, setting out the requirements for the Calculation Agent in acting as a sub-contractor of The European Money Markets Institute for the determination of Efterm®and iii) the Benchmark Determination Methodology for Efterm®, setting out the determination methodology for the calculation of Efterm® under both regular and contingency circumstances.

REAL ESTATE MARKET

(10/10/2022) EBA – Banks exposed to downside risks as residential real estate markets get overheated, EBA Report finds

The European Banking Authority (EBA) has published a thematic note on EU banks' residential real estate exposures. EU banks reported more than EUR 4.1 trillion of loans and advances collateralised by residential immovable property. This corresponds to 1/3 of all loans towards households and non-financial corporates. On the other hand, higher interest rates driven by increased inflation combined with the prospect of slower economic growth will likely put financial pressure on lower income and over-indebted households. EBA highlights that banks should follow prudent loan origination policies and enhance their monitoring of mortgage loan portfolios to identify promptly pockets of risks.

Other publications of interest

Others

Financial system analysis

(11/10/2022) FSB – FSB Chair sets out ongoing work to strengthen financial resilience amidst growing financial stability challenges

The Financial Stability Board (FSB) has published a letter from its Chair, to G20 Finance Ministers and Central Bank Governors. The letter notes that financial conditions have tightened further since July, against the backdrop of higher inflation and a weakening economic outlook. Complementing work on current vulnerabilities, the FSB is taking forward initiatives that deal with important structural changes affecting the financial system. In November, the FSB will report on progress in strengthening the resilience of non-bank financial intermediation. The letter summarises the reports being delivered to the G20 meeting, which cover: crypto assets, cross-border payments, cyber risk, and climate change.

Mortgage loans

(13/10/2022) Fed/CFPB/OCC – Agencies announce threshold for smaller loan exemption from appraisal requirements for higher-priced mortgage loans

The Consumer Financial Protection Bureau (CFPB), the Federal Reserve Board (Fed), and the Office of the Comptroller of the Currency (OCC) have announced that the 2023 threshold for exempting loans from special appraisal requirements for higher-priced mortgage loans will increase from $28,500 to $31,000. The threshold amount will be effective January 1, 2023, and is based on the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers, known as CPI-W, as of June 1, 2022.

Consumer Leasing

(13/10/2022) Fed/CFPB – Agencies announce dollar thresholds in Regulation Z and Regulation M for exempt consumer credit and lease transactions

The Federal Reserve Board (Fed) and the Consumer Financial Protection Bureau (CFPB) have announced the dollar thresholds used to determine whether certain consumer credit and lease transactions in 2023 are exempt from Regulation Z (Truth in Lending) and Regulation M (Consumer Leasing). Specifically, Regulation Z and Regulation M generally will apply to consumer credit transactions and consumer leases of $66,400 or less in 2023. However, private education loans and loans secured by real property, such as mortgages, are subject to Regulation Z regardless of the amount of the loan.

Retail investors

(17/10/2022) CNMC – Análisis del comportamiento de los inversores minoristas en los mercados financieros de 2019 a 2021

The Comisión Nacional del Mercado de Valores (CNMV) has updated its interactive panel on retail investor behaviour with the publication of information for 2021. The data show that the share of the retail investor in the stock market with respect to the total traded stood at 6.4% in 2021, below the share in 2020, when it exceeded 7%, but nearly two points above the previous year (4.4%).

Insured deposit institutions

(18/10/2022) FDIC – FDIC Board of Directors Adopts Final Rule on Assessments, Revised Deposit Insurance Assessment Rates; Maintains the Designated Reserve Ratio for 2023

The Federal Deposit Insurance Corporation (FDIC) Board of Directors (Board) adopted a final rule, applicable to all insured depository institutions, to increase initial base deposit insurance assessment rate schedules uniformly by 2 basis points, beginning in the first quarterly assessment period of 2023. The increase in assessment rate schedules is intended to increase the likelihood that the reserve ratio of the Deposit Insurance Fund (DIF) reaches the statutory minimum of 1.35 percent by the statutory deadline of September 30, 2028.

Work Programme

(18/10/2022) EC – Commission adopts its Work Programme for 2023: Tackling the most pressing challenges, while staying the course for the long-term

The European Commission (EC) has published its workprogramme for 2023 and which contains 43 policy initiatives across six political guidelines: i) European Green Deal; ii) Europe fit for the digital age; iii) economy that works for people; iv) stronger Europe in the world; v) promoting European way of life; vi) push for European democracy.

Other publications of interest

Others

Consumer investment strategy

(18/10/2022) FCA – Consumer Investments Strategy

The Financial Conduct Authority (FCA) has published the Consumer Investment Strategy in which there are set 4 main priorities: i) mainstream investments; ii) higher risk investments (HRI); iii) scam and frauds; and iv) consumer redress. Under these priorities, the FCA aims to reduce the number of consumers with high risk tolerance, reduce the number of consumers investing in HRI, and slow the growth in investment fraud victims and losses. In the strategy, the FCA also highlights several publications that will impact the market over the next 12 months, such as the implementation of the Consumer Duty by July 2023.

Pension plans and funds

(19/10/2022) Ministerio de la presidencia – Real Decreto 885/2022, de 18 de octubre, por el que se modifica el Reglamento de planes y fondos de pensiones, aprobado por el Real Decreto 304/2004, de 20 de febrero, para el impulso de los planes de pensiones de empleo

The Ministerio de la Presidencia, relaciones con las Cortes y memoria democrática has published Royal Decree 885/2022, which implements Law 12/2022 for the promotion of occupational pension plans, with the aim of regulating the essential elements that allow the Law to be applied. Specifically, it establishes the remuneration regime for the management entities of open public pension funds, below 0.30 percent of the assets under management. It also establishes the remuneration system for depositary entities and regulates the organisation and functioning, as a collegiate inter-ministerial body, of the Promoting and Monitoring Committee of the publicly promoted open-ended occupational pension funds in order to be able to make its constitution effective.

Futures

(26/10/2022) ESMA – ESMA issues an opinion on product intervention measure on futures taken by Germany

The European Securities and Markets Authority (ESMA), the EU's financial markets regulator and supervisor, has issued an opinion on a product intervention measure on futures with additional payment obligations taken by the German Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin). ESMA's opinion concludes that the proposed measure is justified and proportionate. In the opinion ESMA encourages NCAs to monitor futures with additional payment obligations in their respective markets to assess whether similar risks for retail investors as those identified by BaFin could arise there.

Borrowers in financial

(03/11/2022) FCA – Borrowers in financial difficulty following the coronavirus pandemic - key findings

The Financial Conduct Authority (FCA) has detailed its findings from our review of firms' treatment of borrowers in financial difficulty after the pandemic. The FCA include areas all firms must improve on. This findings are relevant to the treatment of all borrowers in financial difficulty at any time, including those impacted by the cost of living rises. To improve outcomes for borrowers in financial difficulty, lenders need to focus on issues in these areas: i) engaging with customers , ii) effectiveness of conversations with customers, iii) helping customers to consider and access money advice and not for profit debt advice and iv) fees and charges.

Depository institutions

(04/11/2022) Fed – Federal Reserve Board invites public comment on a proposal to publish a periodic list of depository institutions that have access to Federal Reserve accounts

The Federal Reserve (Fed) Board has published for public comment on a proposal to publish a periodic list of depository institutions that have access to Federal Reserve accounts and payment services. The proposal will enhance transparency to the public by periodically publishing this comprehensive list of financial institutions. Comments can be sent until 4 January 2023.

Hybrid banking instruments

(09/11/2022) Gov.UK – Draft regulations: amendment to the Hybrid and Other Mismatches rules to retain an exemption for certain hybrid instruments issued by banks

The Government of the United Kingdom (Gov.UK) launched in May a technical consultation in order to seeks views on draft regulations that will remove a sunset clause from the Hybrid and Other Mismatches rules so that an exemption for certain hybrid instruments issued by banks continues to apply from 1 January 2023. Now, the Gov.UK has published the responses to this consultation and the Gov.UK explanation to them. The responses to this consultation did not suggest any changes and the draft proposals have been accepted.

Other publications of interest

Others

COVID-19

(14/11/2022) FSB – FSB report considers financial policy challenges in the wake of COVID-19

The Financial Stability Board (FSB) has published a report looking at financial policies in the wake of COVID-19 aimed at supporting equitable recovery and addressing the effects from scarring in the financial sector. The report notes that economic and financial market developments over the past few months have reinforced three challenges to policymakers noted in the FSB's interim report to the G20: i) the need for sustained policy support amidst rising inflation and removal of monetary accommodation; ii) the risk of negative cross-border spillovers from a deteriorating global recovery and diverging monetary and fiscal policy stances; and iii) that vulnerabilities that support measures prevented from materialising may now come to the fore.

FINANTIAL STABILITY REPORT

(16/11/2022) FSB – FSB publishes annual report on its work to promote global financial stability

The Financial Stability Board (FSB) has published its latest Annual Report, which was delivered to the G20 Leaders ahead of their Bali Summit, describes the FSB's work to promote global financial stability. Particularly, the FSB warns that the outlook for global financial stability is particularly challenging amidst high inflationary pressures, elevated debt levels, lower growth, and much tighter global financial conditions. So far global financial markets have proved to be resilient. However, many authorities have limited policy space to intervene should a shock materialise. This amplifies the need to remain vigilant and take policy measures to maintain the resilience of the financial system.

G-SIBS

(21/11/2022) FSB/BIS – 2022 G-SIB list/ More details on global systemically important banks

The Financial Stability Board (FSB) has published the 2022 list of global systemically important banks (G-SIBs) using end-2021 data and applying for the first time the revised assessment methodology published in 2018 by the Basel Committee on Banking Supervision (BCBS). The 30 banks on the list remain the same as the 2021 list. Compared with the 2021 list, one bank moved to a higher bucket (Bank of America has moved to bucket 3) and two banks have moved to a lower bucket (China Construction Bank moves to bucket 1 and BNP Paribas moves to bucket 2). Additionally, the BCBS has published more details on G-SIBs. As a novelty, the BCBS reviewed this year the implications of developments related to the European Banking Union (EBU) for the G-SIB methodology, in particular the treatment of cross-border exposures within the Banking Union. El Consejo de Estabilidad Financiera (FSB) ha publicado la lista de 2022 de bancos de importancia sistémica mundial (G-SIB) utilizando datos de finales de 2021 y aplicando por primera vez la metodología de evaluación revisada publicada en 2018 por el Comité de Supervisión Bancaria de Basilea (BCBS).

SETTLEMENT DISCIPLINE

(21/11/2022) ESMA – ESMA proposes amendments to simplify cash penalties process for cleared transactions under CSDR

The European Securities and Markets Authority (ESMA) has published a Final Report on amending the regulatory technical standards (RTS) on the Settlement discipline, to simplify the cash penalties process by putting the Central Securities Depository (CSDs) in charge of collection and distribution, including for Central Counterparty-cleared transactions.

WAIVERS AND DEFERRALS

(21/11/2022) ESMA – ESMA published annual report on waivers and deferrals

The European Securities and Markets Authority (ESMA) has published its Annual Report on waivers and deferrals. In the report, ESMA provides a picture of the European trading landscape in 2021, encompassing the net effect of Brexit and the relocation process from the UK to the European Union (EU). Furthermre, the ESMA included recommendations: i) streamlining the current deferral regime via a targeted set of amendments; ii) deleting the Size Specific to the Instrument (STI) waiver and deferral for non-equity instruments; iii) and increasing the pre- and post-trade transparency Large in Scale (LIS) threshold for Exchange-Traded Funds.

NON-BANK FINANCIAL INTERMEDIARY

(24/11/2022) BCBS – Newsletter on bank exposures to non-bank financial intermediaries

The Basel Committee on Banking Supervision (BCBS) has published a newsletter which states that the non-bank financial intermediary (NBFI) sector continues to grow and has the potential to cause financial stability concerns. Furthermore, recent episodes of NBFI distress, have highlighted vulnerabilities and deficiencies in banks' risk management practices, with regard to NBFIs. In this sense, the Committee encourages the proper application of existing standards and guidelines, as well as the full and timely implementation of the Basel III standards.

Other publications of interest

Others

CREDIT INFORMATION SECTOR

(24/11/2022) FCA - Credit Information Market Study Interim Report and Discussion Paper

The Financial Conduct Authority (FCA) has published a report which sets out the interim findings from the credit information market study (CIMS) as well as a range of potential remedies. Among the main findings it highlights that the credit information sector needs to work well to support retail lending and to help ensure that credit is offered only where appropriate and at a fair price. Additionally, the UK has a relatively advanced credit information sector, comparing favorably to many other countries in terms of both the depth and coverage of credit information.

INSURANCE PRODUCTS DATA

(25/11/2022) FCA - General insurance value measures data - July to December 2021

La Financial Conduct Authority (FCA) has published the first set of value measures data for a wide range of general insurance (GI) products for July to December 2021, given the increasing value of GI products for consumers and the central feature which holds in the Consumer Duty. The data includes firm specific information on claims frequencies, claims acceptance rates, average claims pay-outs and claims complaints as a proportion of claims, for a wide range of retail GI products. Users of the data can filter the firm specific information by product to explore the distribution of value measures across different firms. In is expected that in the future, datasets will cover 12-month reporting periods and give a fuller picture of product value, also better reflecting wider factors such as seasonality.

INVESTOR EDUCATION

(30/11/2022) IOSCO - IOSCO identifies sound education practices for securities regulators to consider in a crisis situation to support investor protection

International Organization of Securities Commissions (IOSCO) has published a report on Investor Behaviour and Investor Education in Times of Turmoil: Recommended Framework for Regulators based on Lessons Learned from the COVID-19 Pandemic, which found that the pandemic did not hinder investor education efforts. In fact, many regulators continued, expanded and/or adapted their investor education activities to support investor protection throughout the pandemic. The report proposes seven sound practices that regulators should consider when designing financial and investor education initiatives to mitigate and address retail investor risks and vulnerabilities during periods of crisis.

O-SIIS

(29/11/2022) PRA - PS9/22 - Amendments to the PRA's approach to identifying other systemically important institutions (OSIIs)

The Prudential Regulation Authority (PRA) has published a the Policy Statement (PS) 9/22 which updates the Statement of Policy (SoP) on the PRA's approach to identifying other systemically important institutions (O-SIIs) and updates the annex containing the list of EU Guidelines and Recommendations. In the consultation paper (CP) 13/22, the PRA proposed to: i) remove the European Banking Authority's (EBA) scoring methodology from the O-SII identification process, and delete the EBA Guidelines and ii) update specific indicators and weights in the PRA's scoring methodology for O-SII identification. After receiving the feedback, the PRA has made two modifications: i) added a paragraph to clarify the interaction of O-SII designation with the O-SII buffer; and ii) removed the intention to publish scores and the rationale for any use of supervisory judgement.

FINANCIAL SERVICES FRAMEWORK

(13/12/2022) Gov UK/ FCA – Future Regulatory Framework (FRF) Review/ Policy Statement on Building a smarter financial services framework for the UK.

The Financial Conduct Authority (FCA) has set put its approach to the Future Regulatory Framework (FRF) Review. Also the UK Government has published a Policy Statement on Building a smarter financial services framework for the UK, which sets out the government's approach to repealing and replacing retained EU law on financial services to deliver a comprehensive Financial Services and Markets Act (FSMA) model of regulation tailored to the UK. The draft legislation that will enable FCA to implement the outcomes of the FRF Review is in the FSMA Bill. Once the Bill becomes law, the regulatory framework will change.

NBFI

(14/12/2022) FSB - FSB proposes strengthening the liquidity management framework for open-ended funds

The Financial Stability Board (FSB) has published its Assessment of the effectiveness of the FSB's 2017 recommendations on liquidity mismatch in open-ended funds (OEFs). The assessment, which forms part of the FSB's work programme to enhance the resilience of non-bank financial intermediation (NBFI), includes proposals for further policy work in this area. The report finds that authorities have made meaningful progress in implementing the FSB Recommendations.

Other publications of interest

Others

Retail banking products

(14/12/2022) EBA – EBA publishes its first thematic review on the transparency and level of fees and charges for retail banking products in the EU, observing that significant detriment still arises for consumers

The European Banking Authority (EBA) published a thematic review on the transparency and level of fees and charges levied by financial institutions (FIs) on the retail banking products in the EU. Overall, the review finds the variety of types for fees and charges within the EU cause different levels of detriment to consumers, and, with the exception of payment accounts, fees and charges are difficult to compare between providers. The aim of the report was to gather and analyse information in order for the EU co-legislators to assess whether further legislative initiatives may be needed in the future, as well as for the EBA to continue monitoring this issue and/or take any further action.

Cleared derivatives

(15/12/2022) PRA / FCA - PS11/22 – Margin requirements for non-centrally cleared derivatives: Amendments to BTS 2016/2251

The Prudential Regulation Authority (PRA) and Financial Conduct Authority (FCA) have published a Policy Statement (PS) on the Margin requirements for non-centrally cleared derivatives, which sets out: i) specifications on the treatment of third-country funds as eligible collateral, including European Economic Area (EEA) Undertakings for Collective Investment in Transferable Securities (UCITS); ii) a fall-back transition period to address practical issues where firms face immediate application of the bilateral margining requirements; and iii) the updating of the criteria for a central counterparty (CCP) to be excluded from the requirements.

Debt Collection

(15/12/2022) OCC - Fair Debt Collection Practices Act: Revised Interagency Examination Procedures and Rescissions

The Federal Financial Institutions Examination Council's (FFIEC) Task Force on Consumer Compliance has adopted the revised examination procedures for the Fair Debt Collection Practices Act (FDCPA) and its implementing regulation, Regulation F. These provisions address: i) determinations of whether a bank is a debt collector under the FDCPA and Regulation F; ii) prohibitions on certain communications with consumers in connection with debt collection; iii) requirements for a reasonable and simple method that consumers can use to opt out of additional communications and attempts to communicate and iv) prohibited practices of a debt collector to not harass, oppress, or abuse any person in connection with the collection of a debt.

LIBOR

(16/12/2022) FSB - FSB encourages final transition to robust reference rates as cessation of remaining LIBOR panels approaches

The Financial Stability Board (FSB) has published a progress report on the transition from LIBOR and other benchmarks. While significant progress has been made, especially among FSB jurisdictions where exposure to LIBOR is the highest, the report notes that there may be some residual risk arising from relatively low awareness of transition among users of USD LIBOR in jurisdictions where LIBOR exposure is low. The report calls for market participants to take active steps to address existing legacy contracts in preparation for the end of the remaining panel-based USD LIBOR settings and for the winding down of temporary synthetic LIBOR rates.

NBFI

(20/12/2022) FSB - FSB reports on 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 (NBFI) 2022. The report presents the FSB's annual monitoring exercise assessing global trends and risks in NBFI. The main findings from this year's monitoring exercise include: i) The NBFI sector exhibited strong growth in 2021, driven in particular by investment funds; ii) the NBFI sector reached $67.8 trillion in 2021, representing 28.3% of total NBFI assets and 14.1% of total global financial assets; and iii) since 2013, NBFI sector linkages with the banking sector through funding and exposures have continued to decrease.

Credit managers and purchasers

(20/12/2022) MINECO -Transposición de la Directiva (UE) 2021/2167 del Parlamento Europeo y del Consejo de 24 de noviembre de 2021 sobre los administradores de créditos y los compradores de créditos y por la que se modifican las Directivas 2008/48/CE y 2014/17/UE

The Ministerio de Asuntos Económicos y Transformación Digital (MINECO) has published a public consultation aimed at transposing Directive (EU) 2021/2167 of the European Parliament and of the Council of 2021 on Credit Managers and Credit Purchasers, the deadline for transposition of which has been set for 29 December 2023 at the latest. The consultation aims to gather information on: i) the problems that the initiative is intended to address; ii) the necessity and timeliness of its adoption; iii) the objectives of the rule; iv) possible alternative regulatory and non-regulatory solutions.

Other publications of interest

Others

ADMINISTRATIVE SANCTIONS

(20/12/2022) EIOPA - EIOPA publishes annual report on sanctions under the Insurance Distribution Directive in 2021

The European Insurance and Occupational Pensions Authority (EIOPA) has published its third annual report on administrative sanctions and other measures imposed during 2021 by national competent authorities (NCAs) under the Insurance Distribution Directive (IDD). National competent authorities in altogether 18 Member States imposed 1,621 sanctions in total, representing a slight overall decrease compared to previous years. As in earlier reporting periods, the vast majority (over 70%) of sanctions in 2021 were for breaches of the professional and organisational requirements in Article 10 of IDD.

FINANCIAL CONGLOMERATES

(22/12/2022) ESAs - ESAs publish list of financial conglomerates for 2022

The Joint Committee of the European Supervisory Authorities (EBA, EIOPA and ESMA – ESAs) published today the list of identified financial conglomerates for 2022. The 2022 list includes 63 financial conglomerates, 3 less than the previous year. LMV group, Crédito Agrícola and Taaleri Group have exit the list.

INFLATION

(22/12/2022) EIOPA - EIOPA publishes supervisory statement on inflation

The European Insurance and Occupational Pensions Authority (EIOPA) has published a Supervisory Statement which addresses inflation-related issues in (re)insurance from a prudential perspective. Higher inflation is persisting globally during 2022. This is having a material impact on the economy in general reducing growth forecasts and decreasing the purchasing power of consumers. The impact of the inflation is undertaking specific, and this Supervisory Statement aims mainly to raise awareness about the relevant Solvency II provisions. In this regard, the expectations of the EIOPA focuses on: i) the impact on technical provisions; ii) the impact on investments; and iii) the impact on Solvency Capital Requirement.

- **SUSTAINABILITY**

IMPACT PROTOCOL

(10/10/2022) UNEP FI – UNEP FI launches Impact Protocol for Banks

The United Nation Environment Financial Initiative (UNEP FI) has launched the Impact Protocol for Banks, along with the latest Module of Version 3 of the Portfolio Impact Analysis Tool for Banks, marking the consolidation of a full toolkit for impact management for banks. The Impact Protocol provides a step-by-step overview of how to analyse and manage bank portfolio impacts as per UNEP FI's holistic impact approach, and in conformity with the requirements of the Principles for Responsible Banking. Furthermore, UNEP FI's Impact Analysis Tools, which are the operationalisation of the holistic impact approach and methodology, has a new modular version which allows more flexibility to accommodate for a variety of types of user.

WATER AND AIR POLLUTION

(26/10/2022) EC – European Green Deal: Commission proposes rules for cleaner air and water

The Commission (EC) has proposed tougher rules on pollutants in ambient air, surface water, groundwater and urban waste water treatment. For air, the proposals will ensure that people suffering health problems as a result of air pollution will be entitled to compensation in the event of breaches of EU air quality standards. On residential water, it includes stricter standards for nutrients from waste water, micropollutants and new requirements for the control of microplastics. In addition, the list of water pollutants with PFAs, anti-biotics, bisphenol A, pesticides, among others, will be updated. Once adopted, the proposals will take effect progressively, some of them will be left to national authorities to decide what concrete measures to adopt.

COMPLIANCE CARBON MARKETS

(09/11/2022) IOSCO – IOSCO consults on the development of sound and well-functioning carbon markets

The Board of the International Organization of Securities Commissions (IOSCO) has launched a public consultation on recommendations for establishing sound Compliance Carbon Markets (CCMs) and on key considerations for enhancing the resilience and integrity of Voluntary Carbon Markets (VCMs). IOSCO calls on market participants to provide feedback on how to foster fair and functional markets and increase structural resilience to ensure these markets achieve the environmental objectives upon which their existence is based. Comments can be sent before 10 February.

Other publications of interest
Others

CLIMATE SCENARIOS

(15/11/2022) FSB/NGFS – Current climate scenario analysis exercises may understate climate exposures and vulnerabilities, warn FSB and NGFS

The Financial Stability Board (FSB) and Network for Greening the Financial System (NGFS) have published a joint report outlining initial findings from climate scenario analyses undertaken by financial authorities at the individual firm level, at the level of the different financial sectors, and at the overall financial system level to assess climate-related financial risks. The report highlights that the exercises, mostly based on NGFS scenarios, have explored a range of physical and transitional risk factors. The use of different approaches means that the results are not directly comparable, but it highlights that measures of exposure and vulnerability are likely to be underestimated, not least because the measurements do not capture certain sources of risk. This is compounded by the scarcity of data, which remains a key challenge for these

CLIMATE CHANGE COMMITMENTS

(18/11/2022) EIOPA - EIOPA underlines its commitment to supporting the insurance and pensions sectors in tackling climate change

The European Insurance and Occupational Pensions Authority (EIOPA) has underlined its commitment to supporting the insurance and pensions sectors in tackling climate change, which includes actions such as: i) the assessment of the resilience of Europe's occupational pensions sector against a climate change scenario through the stress test exercice lauched in 2022 and which results are expected for December ; ii) publication of a consultation paper in December regarding prudential treatment of environmental or social objectives under Solvency II; and iii) publication of the first European-wide dashboard on the natural catastrophe insurance protection gap, also expected for December.

ESG TERMS

(18/11/2022) ESMA - ESMA launches a consultation on guidelines for the use of ESG or sustainability-related terms in funds' names

The European Securities and Markets Authority (ESMA) has launched a consultation on draft guidelines on the use in funds' names of ESG or sustainability-related terms. In order not to mislead investors, ESMA believes that the use of these terms in funds' names should be supported in a material way by evidence of sustainability characteristics or objectives that are reflected fairly and consistently in the fund's investment objectives and policy. ESMA is particularly seeking stakeholders' feedback on the introduction of quantitative thresholds for the minimum proportion of investments sufficient to support the **ESG OR SUSTAINABILITY-RELATED** terms in funds' names. This consultation is open until 20 February 2023.

GENDER EQUALITY

(22/11/2022) EC – Gender Equality: The EU is breaking the glass ceiling thanks to new gender balance targets on company boards

The European Parliament (EP) has formally adopted the new European Union (EU) law on gender balance on corporate boards. By 2026, companies will need to have 40% of the underrepresented sex among non-executive directors or 33% among all directors. Once published in the Official Journal, the Directive will enter into force 20 days after publication and Member States will have two years to transpose its provisions into national law. The measures provided for in this Directive should apply to listed companies and should not apply to micro, small and medium-sized enterprises (SMEs).

DIVERSITY AND INCLUSION

(13/12/2022) FCA – Understanding approaches to D&I in financial services

The Financial Conduct Authority (FCA) has published its review of the current state of diversity and inclusion (D&I) approaches in regulated firms, which contains its findings on the D&I strategies and an overview of initiatives to improve diversity and inclusion, which industry leaders can consider in reviewing their own D&I strategies. The results show that all firms were early in the development of their approach on D&I, typically having started serious efforts in 2019 or 2020. Some firms had made more progress than others but there was generally little correlation between how developed the firms' approaches were and the scale of pay gap

CLIMATE

(18/12/2022) Council - 'Fit for 55': Council and Parliament reach provisional deal on EU emissions trading system and the Social Climate Fund

The Council and the European Parliament have reached a provisional political agreement on major legislative proposals for the European Union (EU) Emissions Trading Scheme (ETS) that will further reduce emissions and address their social impacts. This is a provisional agreement pending formal adoption by both institutions. The Council and Parliament have agreed to increase the overall ambition for emission reductions to 62% by 2030 in the sectors covered by the EU ETS.

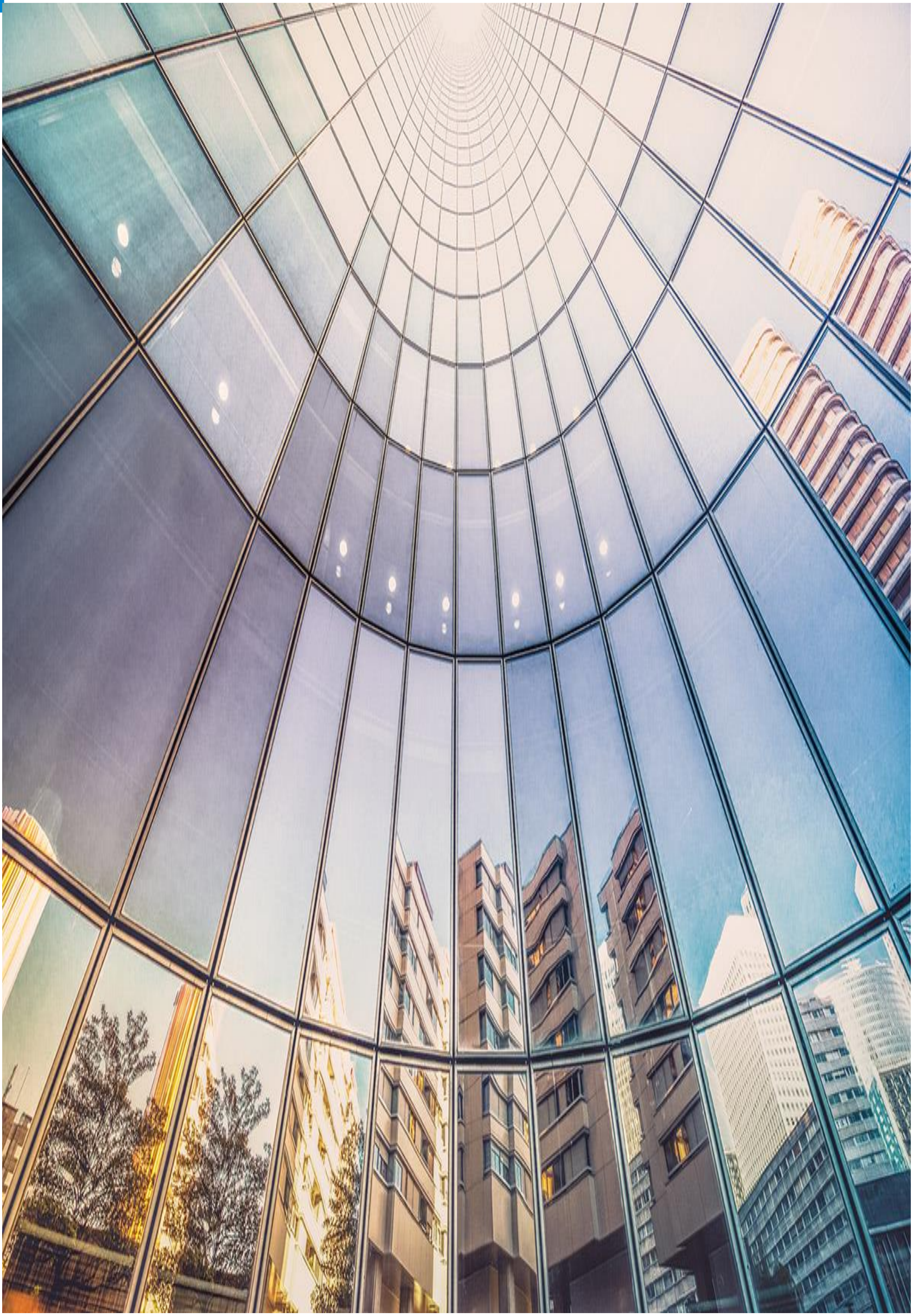
Other publications of interest

Others

COP 15

(19/12/2022) EC - COP15: acuerdo mundial histórico en favor de la naturaleza y las personas

At the UN Biodiversity conference COP15, the EU joined 195 countries in the historic Kunming-Montreal Global Biodiversity Framework. This framework contains global goals and targets aiming to protect and restore nature for current and future generations, ensure its sustainable use as well as spur investments for a green global economy. The agreement is a solid framework with clear, measurable goals and targets: i) restore 30% degraded ecosystems globally (on land and sea) by 2030; ii) conserve and manage 30% areas (terrestrial, inland water, and coastal and marine) by 2030; and iii) stop the extinction of known species



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