

Banking prudential regulatory bulletin

PwC Ireland

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Executive summary

In April, the Joint Committee of the ESA published its 2021 Annual Report providing a detailed account of its joint work completed over the past year. A significant part of its work in 2021 focused on developing the regulatory and supervisory framework for sustainability related disclosures.

Additionally, the three European Supervisory Authorities (namely EBA, ESMA and EIOFA) issued their first joint risk assessment report for 2022. The report highlights the increasing vulnerabilities across the financial sector as well as the risk of environment and cyber risks.

In May, the EBA published its annual report on convergence of supervisory practices for 2021. The report found that national competent authorities made progress in the implementation of the EBA guidelines on supervisory review and evaluation process and that Pillar 2 requirements are consistently considered when calculating the trigger point for the maximum distributable amount restrictions. The report also sets expectations for additional efforts from competent authorities on topics such as Information and Communication Technology (ICT) risks, namely cyber risks, business model challenges and the respective digital transformation.

In addition, it highlights the need for more harmonised practices in the determination of capital add-ons.

The EBA also published an update to its Implementing Technical Standards (ITS) which specify the data collection for the supervisory benchmarking exercise of 2023 in relation to the internal approaches used in market and credit risk and in IFRS 9 accounting. The updated ITS includes all benchmarking portfolios and metrics that will be used for 2023 exercise.

Finally in June, the EBA published four draft principles to support supervisory efforts in assessing the representativeness of COVID-19 impacted data for banks using internal ratings based models. These principles will be part of supervisory handbook, which the EBA will publish later in 2022.

We hope you enjoy reading this quarters edition.

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Prudential regulatory developments

Capital and liquidity

➔ **EBA sees progress in MREL shortfall reduction by largest institutions while smaller institutions are lagging behind**

The EBA published its annual Report on minimum requirements for own funds and eligible liabilities (MREL). The Report shows progress in closing MREL shortfalls, as of December 2020, which was mostly driven by largest institutions while smaller institutions lagged somewhat behind.



➔ **EBA launches survey for banks on the application of the infrastructure supporting factor**

The EBA launched a survey for banks on their experiences with the application of the so-called infrastructure supporting factor in accordance with the Capital Requirement Regulation (CRR 2). Besides assessing the application of the supporting factor, the survey aims at providing valuable information on the materiality of infrastructure project loans across EU banks, irrespective of whether credit institutions specialise in infrastructure lending or not.

The survey ended on 27 May 2022.

➔ **EBA announces timeline for the 2022 EU-wide Transparency exercise and EBA Risk Assessment Report**

The EBA will be launching its annual 2022 EU-wide Transparency exercise in September and expects to release the information on banks' exposures and asset quality at the beginning of December, along with the EBA Risk Assessment Report. The exercise will cover the figures from the second half of 2021 and the first half of 2022.

➔ **EBA observed an increasing encumbrance ratio in 2021 with some signs of stabilisation**

The EBA published its annual Asset Encumbrance Report. The Report highlights that banks continued to make extensive use of central bank funding in 2021. As a result, the overall encumbrance ratio rose by 2.2 percentage points in 2021 to 29.1%.

➔ **EBA publishes amended final draft technical standards on the mapping of ECAIs for securitisation positions**

The EBA published final draft Implementing Technical Standards (ITS) to amend the Implementing Regulation on the mapping of credit assessments of External Credit Assessment Institutions (ECAIs) for securitisation positions. The changes reflect the relevant amendments introduced by the new Securitisation Framework, as well as the mappings for three ECAIs that extended their credit assessments to cover securitisations. The Implementing Regulation is part of the EU Single Rulebook for banking aimed at creating a safe and sound regulatory framework consistently applicable across the European Union (EU).

Recovery and resolution

→ SRB publishes updated guidance documents for bail in operationalisation

SRB Updated guidance on bail-in operationalisation. The SRB published its updated guidance on the bail-in operationalisation. The previous update to this guidance was in August 2020. The main changes include more detail to intra-group loss transfer and recapitalisation mechanisms between the resolution entity and its subsidiaries, as well as the required Management Information Systems (MIS). There is also an additional section on the testing of bail-in playbooks based on the SRB's experience in recent years.

→ EBA consults on Guidelines to resolution authorities on the publication of their approach to implementing the bail-in tool

The EBA launched a public consultation on its draft Guidelines addressed to resolution authorities for the publication of their approach to implementing the bail-in tool. The Guidelines aim to ensure that a minimum level of harmonised information is made public with regard to the mechanics underpinning the execution of the bail-in tool.

The consultation runs until 7 September 2022.

→ SRB publishes updated 2022 MREL policy

The SRB published its updated MREL policies that apply from the 2022 resolution planning cycle. The updated policies take into account regulatory developments, such as the end of the supervisory leverage relief measures by the ECB and the CRR changes on the indirect holding of internal MREL, as well as the MREL calibration for banks with a multiple point-of-entry resolution strategy. The policy also makes the subordination policy more dynamic.





SRB Addendum to the Public Interest Assessment Deposit Guarantee Schemes Considerations

On 23 May 2022, SRB published an addendum to the Public Interest Assessment on Deposit Guarantee Scheme considerations. The SRB will in particular check whether the requirements specified in the DGSD have been met by national authorities, determine covered deposits pay-out based on the size of covered deposits and assess whether payout can be met by a combination of available financial means. It will also assess whether the impact of meeting the pay-out on the remaining DGS members challenges the wider resolution objective of avoiding systemic risk.



Single Resolution Fund on track for Euro 80 billion by end of 2023

On 2 May SRB published a blog post of Jan Reinder De Carpentier, Vice-Chair at Single Resolution Board, on the Single Resolution Fund. The total amount of contributions that will be transferred to the SRF is of EUR 13.7 billion bringing the total value of the SRF up to EUR 66 billion, with a projected size of around EUR 80 billion at the end of 2023. According to the latest estimates, in 2024 the SRF will be fully mutualised and stand around EUR 80 billion (1% of covered deposits) and the national DGSs should also have reached their targets of 0.8% of covered deposits.



Single Resolution Board publishes MREL dashboard Q4 2021

The SRB published its MREL dashboard for Q4.2021. The average MREL shortfall to the final 2024 targets including the CBR reached 0.45% TREA (or EUR 32.6 bn) for resolution entities. For non-resolution entities, the average MREL shortfall (including the CBR) against the final target halved with respect to Q3.2021 and amounted to 1.06% TREA (or EUR 22 bn). MREL funding costs deteriorated in the first quarter, in light of rising geopolitical risks and elevated energy and oil prices, as well as inflationary pressures.



2022 Resolution planning Cycle Booklet

The SRB published its 2022 Resolution Planning Cycle Booklet which includes the SRB's resolution planning activities and describes the current Resolution Planning Cycle (RPC). Banks will receive bank-specific 2023 SRB priority letters in September 2022. In 2023, the SRB is also planning to publish its Multiannual Work Programme 2024-2026.

Supervisory reporting

→ EBA issues revised list of ITS validation rules

The EBA issued a revised list of validation rules for its reporting standards (ITS, RTS, 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.



→ EBA updates mapping between technical standards on Pillar 3 disclosures and technical standards on supervisory reporting (v3.0)

The EBA published an updated mapping between quantitative disclosure data points and the relevant supervisory reporting data points. The mapping is part of the EBA's overall objective to make the reporting and disclosure process more efficient and less costly for banks and aims at facilitating institutions' compliance with disclosure requirements and improving the consistency and quality of the information disclosed. The updated mapping applies to the reporting framework 3.0 and the Implementing Technical Standards (ITS) on institutions' Pillar 3 public disclosures.

→ EBA consults on standardised information requirements to support sales of non-performing loans

The EBA launched a public consultation on the draft Implementing Technical Standards (ITS) specifying the requirements for the information that sellers of non-performing loans (NPL) shall provide to prospective buyers, seeking to improve the functioning of NPL secondary markets. The objective of the draft ITS is to provide a common standard for the NPL transactions across the EU enabling cross-country comparison and thus reducing information asymmetries between the sellers and buyers of NPL. The deadline for the submission of comments is 31 August 2022.

→ EBA releases phase 2 of its 3.2 reporting framework

The EBA published phase 2 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 the version 3.2.



EBA adopts decision on reporting of supervisory data from investment firms' competent authorities to the EBA

The EBA adopted a decision on how competent authorities supervising investment firms under the IFR will transmit supervisory data to the EBA.

This Decision sets the scope, timing and modalities of the data submission via the European Centralised Infrastructure of Data (EUCLID). The first submission is expected by 31 December 2022.



EBA clarifies the use of COVID-19-impacted data for internal credit risk models

The EBA published four draft principles to support supervisory efforts in assessing the representativeness of COVID-19 impacted data for banks using internal ratings based (IRB) models. These principles will be part of a supervisory handbook, which the EBA will publish later in 2022 with the objective to ensure a harmonised approach in the use of COVID-19 data, especially where the use of moratoria and other public measures may have led to changes in default rates.



EBA updates technical standards in view of its 2023 benchmarking of internal approaches

The EBA published an update to its Implementing Technical Standards (ITS) which specify the data collection for the supervisory benchmarking exercise of 2023 in relation to the internal approaches used in market and credit risk and IFRS 9 accounting. The updated ITS include all benchmarking portfolios and metrics that will be used for the 2023 exercise. The benchmarking exercise is an essential supervisory tool to monitor and enhance the quality of internal models, which are relevant for the assessment of the institution's capital adequacy.

Sustainable finance

→ EBA launches discussion on the role of environmental risks in the prudential framework

The EBA published a Discussion Paper on the role of environmental risks in the prudential framework for credit institutions and investment firms. The Paper explores whether and how environmental risks are to be incorporated into the Pillar 1 prudential framework. It launches the discussion on the potential incorporation of a forward-looking perspective in the prudential framework. It also stresses the importance of collecting relevant and reliable information on environmental risks and their impact on institutions' financial losses.

→ ESAs consult on sustainability disclosures for simple, transparent and standardised securitisations

The ESAs published a Consultation Paper seeking input on draft Regulatory Technical Standards (RTS) on the content, methodologies and presentation of information in respect of the sustainability indicators for Simple, Transparent and Standardised (STS) securitisations.

→ ESAs provide clarifications on key areas of the Regulatory Technical Standards (RTS) under SFDR

The three ESAs published a statement providing clarifications on the draft RTS issued under the Sustainable Finance Disclosure Regulation (SFDR), which include the financial product disclosures under the Taxonomy Regulation. The statement provides clarifications on key areas like, use of sustainable indicators, principal adverse impact (PAI) disclosures, financial product disclosures, direct and indirect investments, taxonomy -related financial product disclosures and disclosures for products with investment options.

The statement is part of ESA's on-going efforts to promote a better understanding of the disclosures required under the technical standards of the SFDR ahead of the planned application of the rules on 1 January 2023.





Investment firms

→ EBA publishes its final guidelines on the remuneration and gender pay gap benchmarking exercise under the Capital Requirements Directive (CRD) and the Investment Firms Directive (IFD)

The EBA published its final Guidelines on the remuneration benchmarking exercise under the CRD, which were originally published in 2012 and updated in 2014. The update was necessary to take into account additional requirements introduced by CRD V regarding the application of derogations and the benchmarking of the gender pay gap. The EBA also added guidance to harmonise the benchmarking of approvals granted by shareholders to use higher ratios than 100% between the variable and fixed remuneration. Separate Guidelines on the remuneration and gender pay gap benchmarking exercise are provided for investment firms under the IFD.

→ EBA publishes its final Guidelines on data collection exercises regarding high earners

The EBA published its final updated Guidelines on the data collection exercise on high earners, which were originally released in 2012 and revised in 2014. The update of the data collection exercises reflects the amended remuneration framework laid down in the CRD, including the introduction of derogations to pay out a part of the variable remuneration in instruments and under deferral arrangements. In addition, the need to update these Guidelines stems from the specific remuneration regime that has been introduced for investment firms and is laid down in the IFD and IFR.

→ ESAs propose extending temporary exemptions regime for intragroup contracts during EMIR review

The ESAs published a final report with draft RTS proposing to amend the Commission Delegated Regulation on the risk mitigation techniques for over-the-counter (OTC) derivatives not cleared by a Central Clearing Counterparty (CCP) under the European Market Infrastructure Regulation (EMIR).



Other updates

→ EBA highlights main achievements in 2021 in its Annual Report

The EBA published its Annual Report which describes in detail the activities and achievements of the Authority in 2021 and provides an overview of the key priorities for the coming year.

→ ESAs publish joint Annual Report for 2021

The Joint Committee of the ESAs published its 2021 Annual Report, providing a detailed account of its joint work completed over the past year.

→ ESAs recommend changes to make the PRIIPs key information document more consumer-friendly

The ESAs published their technical advice to the European Commission on the review of the Packaged Retail and Insurance-based Investment Products (PRIIPs) Regulation. The advice will serve as input for developing the Commission's Retail Investment Strategy.

→ EBA consults on technical standards on the identification of a group of connected clients

The EBA launched a public consultation on draft Regulatory Technical Standards (RTS) on the identification of a group of connected clients (GCC). The draft RTS, in conjunction with the EBA Guidelines on connected clients, provide the complete framework for the identification of the GCC.

The consultation ends on 8 September 2022.

→ ESAs refer stakeholders to Commission statement on the application date of new PRIIPs rules

The ESAs would like to draw the attention of stakeholders to a Statement by the European Commission concerning the application date of new rules for the Key Information Document (KID) for packaged retail and insurance-based investment products (PRIIPs).





Other updates



EBA issues an opinion on the European Commission's proposed amendments to the EBA final draft technical standards for own funds and eligible liabilities

The EBA published an Opinion on the amendments proposed by the European Commission to the EBA final draft Regulatory Technical Standards (RTS). In the Opinion the EBA expresses its disagreement with two substantive changes proposed by the Commission and agrees with the other amendments, which are considered non-substantive.



EBA publishes final technical standards to identify shadow banking entities

The EBA published its final draft Regulatory Technical Standards (RTS) specifying the criteria to identify shadow banking entities for the purposes of reporting large exposures. The final draft RTS clarify that entities carrying out banking activities or services and which have been authorised and supervised in accordance with the EU prudential framework, shall not be considered as shadow banking entities.



EBA publishes final technical standards on crowdfunding service providers

The EBA published its final draft Regulatory Technical Standards (RTS) specifying the information that crowdfunding service providers shall provide to investors on the calculation of credit scores and prices of crowdfunding offers. The final draft RTS also specify a minimum set of common standards with regards to information to be considered in credit risk assessment and loan valuation and the underlying policies and governance arrangements.



ESAs call for improvements in product descriptions intended for retail investors

The ESAs issued a joint supervisory statement regarding the 'What is this product?' section of the key information document (KID) for packaged retail and insurance-based investment products (PRIIPs). The expectations put forward in the supervisory statement aim at improving the quality of descriptions provided by PRIIPs manufacturers and thereby contribute to better protection of retail investors.



Other updates

→ EBA publishes final draft technical standards on the risk retention requirements for securitisations

The EBA published its final draft Regulatory Technical Standards (RTS) specifying the requirements for originators, sponsors and original lenders related to risk retention as laid down in the Securitisation Regulation and as amended by the Capital Markets Recovery Package (CMRP). These RTS aim to provide clarity on the risk retention requirements ensuring a better alignment of interests and reducing the risk of moral hazard, thus contributing further to the development of a sound, safe and robust securitisation market in the EU.

→ EBA publishes peer review on management of non-performing exposures

The EBA published the conclusion of its peer review of how prudential and consumer protection authorities supervise the management of non-performing exposures (NPE) by institutions and have implemented the EBA Guidelines on the management of NPE. The analysis suggests that the competent authorities across the EU have applied a risk-based approach to the supervision of NPE management. The EBA has not identified any significant concerns regarding the supervision practices but makes some general recommendations for further improvements.

→ EBA proposes to simplify and improve the macroprudential framework

The EBA published its response to the European Commission's Call for Advice on the review of the macroprudential framework, proposing a set of recommendations to simplify the procedures around some of the existing macroprudential tools and to increase harmonisation for others.

→ EBA updates its Guidelines for assessing equivalence of professional secrecy regimes of third country authorities

The EBA published its updated Guidelines for assessing equivalence of professional secrecy and confidentiality regimes of third country authorities, to widen the scope and the purpose of the assessment

→ EBA sees progress in the implementation of the supervisory review and evaluation process and of the supervisory priorities for 2021 but flags some areas for improvement

The EBA published its annual Report on convergence of supervisory practices for 2021. Competent Authorities made progress in the implementation of the EBA Guidelines on supervisory review and evaluation process (SREP). The Report also reflects consistent implementation into their supervisory practices of the key supervisory priorities for 2021. However, the Report sets expectations for additional efforts from Competent Authorities on topics such as ICT risks, namely cyber risk and business model challenges and the respective digital transformation. In addition, the Report highlights the need for more harmonised practices in the determination of capital add-ons.



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