

25 MÄRZ 2021

# Weekly *Regulatory* Digest

Week 12/13 – 25 to 31 March 2021

## 0. Overview

WRD # WR 1-12-13

Type	#	Source	Title	Key	IA	L2-S	#T
Regulation							33
	1	MAS	published responses to, and new consultation on, Draft Standards for Credit Risk Capital and Output Floor Re	Other	Yes	04.1	1
	2	FMA	published Guideline 2021/15 on electronic of metadata under Prospectus Regulation	Other	No	06.2	1
	3	FED	announced end for most firms of temporary and additional restrictions on BHC dividends and share repurchas	Other	No	04.1	1
	4	DFS	Announced Proposed Guidance to New York Insurers on Managing the Financial Risks from Climate Change	Other	No	08.5	1
	5	PRA and FCA	addressed Joint Dear CEO letter on Transition from LIBOR to Risk Free Rates	Other	No	03.5	1
	6	ESMA	consults on the framework for EU Money Market Funds	Other	No	08.4	1
	7	ESMA	provided Technical Advice to EU Commission on procedural rules for penalties imposed on Benchmark Admi	Other	No	03.5	1
	8	ESMA	advises on framework for data reporting service providers	Other	No	08.4	1
	9	EIOPA	consults on revised Guidelines on the use of the Legal Entity Identifier	Other	No	09.3	1
	10	ASIC's	CFD product intervention order takes effect	Other	No	06.1	1
	11	ASIC	adopted 'no-action' position and re-issues guidelines for virtual meetings	Other	No	04.1	1
	12	AMF	published proposals for the review of the regulation on European long-term investment funds (ELTIF)	Other	No	08.4	1
	13	PRA, FCA and BoE	published joint Policy Statement on Operational resilience: Impact tolerances for important busi	Other	No	11.3	1
	14	PRA	published Policy Statement on Outsourcing and third-party risk management	Other	Yes	11.2	1
	15	OSFI	Seeks Comments on Revisions to the Vested Asset Regime for Foreign Insurance Branches	Other	No	08.4	1
	16	PBC, CBIRC, and MOHURD	released Notice on Preventing Illegal Flow of Business Loans into the Real Estate Sector	Other	No	13.2	1
	17	HKMA	issued Circular on Interim Reporting Guidelines for Alternative Reference Rates	Other	No	03.5	1
	18	FSC	informed about short selling rules in the revised FSCMA to be effective from 6 April 2021	Other	No	13.1	1
	19	FSC	Announced Authorities to Closely Monitor Illegal and Suspicious Activities Linked to Property Market Speculati	Other	No	13.2	1
	20	RBI	Published Amendments to Prudential Guidelines on Bilateral Netting of Qualified Financial Contracts	Other	No	13.2	1
	21	FMA	published Guideline 2021/2 on the determination of the calculation methodology of the benchmark interest i	Other	No	03.5	1
	22	BaFin	consults on circular on online announcements on appointments of managing directors and members of sup	Other	No	02.1	1
	23	ESMA	proposes amendments to MiFIR transactions and reference data reporting regimes	Other	No	12.3	1
	24	CVM	enacted transition rule for compliance with the advance notice period for general meetings	Other	No	04.1	1
	25	JFSA	to Implement Notification of Originator and Beneficiary Information upon Crypto Assets Transfer (Travel Rule)	Other	No	05.1	1
	26	FSC	Consults on Supervisory Regulation Following Legal Framework on the Supervision of Non-holding Groups	Other	No	04.1	1
	27	FCA	released PS on Extension of Annual Financial Crime Reporting Obligation	Other	No	12.3	1
	28	EC	launched targeted consultation on instant payments	Other	No	08.4	1
	29	EBA	launched public consultation on regulatory technical standards on disclosure of investment policy by investme	Other	No	04.1	1
	30	ESMA	clarifies corporate disclosures obligations for UK issuers after Brexit	Other	No	04.1	1
	31	ESMA	promotes coordinated action on the suspension of best execution reports	Other	No	06.1	1
	32	FED	adopted final rule outlining and confirming the use of supervisory guidance for regulated institutions	Other	No	04.1	1
	33	FinCEN	Consults Regulatory Process for New Beneficial Ownership Reporting Requirement	Other	No	05.1	1
Standard							12
	34	BoE	published report on liquidity management in UK open-ended funds	Other	No	08.5	1
	35	Agencies	seek wide range of views on financial institutions' use of artificial intelligence	Other	No	10.2	1
	36	BoE and FCA	encourage market participants in a switch to SONIA in the sterling non-linear derivatives market from	Other	No	03.5	1
	37	FCA	published finalized guidance on pension transfers advice	Other	No	06.1	1
	38	SRB	issued new guidance on bail-in for international debt securities	Other	No	04.1	1
	39	CNBV and FIU	in joint communication presented Guidance on regulated entities transaction reports findings	Other	No	05.1	1
	40	OCC	announced FFIEC's revised 2021 'A Guide to HMDA Reporting: Getting It Right!'	Other	No	13.2	1
	41	FASB	Provided Alternative to the Goodwill Triggering Event Assessment for Certain Private Companies and Organiz	Other	No	12.2	1
	42	IASB	seeks comments to help shape its five-year plan	Other	No	12.2	1
	43	ESAs	warn of an expected deterioration of asset quality	Other	No	13.2	1
	44	FED	published FAQs comprising existing legal interpretations related to a number of the FED's longstanding regulat	Other	No	04.1	1
	45	NIST	Releases an Example Implementation Tool for NISTIR 8212: An Information Security Continuous Monitoring F	Other	No	07.3	1
Sub-Total							45

Note: The Flag "IA = Yes" indicates that the regulation / standard specifically addresses the internal audit function

(To be continued...)

(...continued)

WRD# WR 1-12-13

Type	#S	Title	Key	IA	L2-S	#T
Standard (continued)						5
46	BCBS issues principles for operational resilience and risk	Key	Yes	11.3	1	
47	IASB extends support for lessees accounting for covid-19-related rent concessions	Other	No	12.2	1	
48	IIA published report on Internal Audit’s Digital Transformation Imperative	Other	Yes	N/A	1	
49	IIA to Explore Improvements To International Professional Practices Framework	Other	No	N/A	1	
50	IIA and EY published a report on the “Risky six”	Other	Yes	07.3	1	
Information						16
51	FINMA published its 2020 Annual Report	Other	No	N/A	1	
52	FCA published Feedback Statement on Open Finance	Other	No	08.4	1	
53	ESAs publish Joint Opinion on jurisdictional scope under the Securitization Regulation	Other	No	13.2	1	
54	IA informed about the commencement of the Group-wide Supervision Framework and regulatory regime of insurance	Other	No	08.4	1	
55	FSC Announced Financial Authorities to Strengthen Monitoring and Detection of Fraudulent Activities	Other	No	03.2	1	
56	EIOPA brings about important changes with regard to published national general good rules	Other	No	08.4	1	
57	ESMA publishes response to IASB Request for Information on the Post Implementation Review of IFRS 10, 11 and 12	Other	No	12.2	1	
58	IOSCO Technical Expert Group to undertake an assessment of the technical recommendations to be developed as part of the IFRS 10, 11 and 12 project	Other	No	04.1	1	
59	AMA informed about amendment to VAT Sector Info 14 (Financial Sector)	Other	No	08.4	1	
60	FCA informed about future consultation on strengthening investor protections in Special Purpose Acquisition Companies	Other	No	06.1	1	
61	ESAs issue a report on the application of their Guidelines on complaints-handling	Other	No	04.4	1	
62	EBA published Risk Dashboard for the last quarter of 2020	Other	No	N/A	1	
63	EBA reviews final Q&As against revised legislation	Other	No	04.1	1	
64	EIOPA partially supports a planned prohibition of some unit-linked life insurance products by the Polish KNF	Other	No	08.4	1	
65	BIS GHOS met to endorse strategic priorities and work program of BCBS and discuss global initiatives on non-bank financial institutions	Other	No	N/A	1	
66	FSB released final report on the evaluation of the effects of too-big-to-fail reforms	Other	No	N/A	1	
Enforcement						4
67	ESMA fined Moody’s EUR 3.7m for conflicts of interest failures	Other	No	13.2	1	
68	PSR provisionally finds five companies broke the law by engaging in cartel behavior in the pre-paid cards market	Other	No	03.3	1	
69	APRA takes action against Macquarie Bank over multiple breaches of prudential and reporting standards	Other	No	12.3	1	
70	ASIC sues CBA for misleading conduct over monthly access fees	Other	No	06.2	1	
Event						19
71	FinCEN Published Innovation Hours Report Highlights Program’s Impact and Outlines Its Role in Supporting FinCEN’s Mission	Other	No	05.1	1	
72	FED communicated Joint Statement on the US-EU Joint Financial Regulatory Forum	Other	No	N/A	1	
73	Treasury informed about First Joint Committee Meeting US-UK on Prudential Measures Regarding Insurance and Financial Institutions	Other	No	N/A	1	
74	FASB announced meeting with Accounting Standards Board of Japan	Other	No	N/A	1	
75	MAS published infographic providing overview of MAS’ AML / CFT requirements and supervisory expectations for the industry	Other	No	05.1	1	
76	HKMA launched the "RegTech Challenge"	Other	No	10.2	1	
77	APRA publishes updated FAQs on the capital framework for COVID-19 related disruptions	Other	No	08.5	1	
78	JFSA launched a Dedicated International Financial Center Page	Other	No	04.1	1	
79	BoJ and HKMA launched a cross-border DVP Link for cross-currency securities transactions	Other	No	09.2	1	
80	ESAs publish Q&As on cross-sectoral aspects of the Securitisation Regulation	Other	No	13.2	1	
81	ESMA updated Q&A on inducements	Other	No	06.2	1	
82	ESMA updates UCITS Q&As	Other	No	08.4	1	
83	ESMA updates AIFMD Q&As	Other	No	08.4	1	
84	ESRB published Working Paper on "The importance of technology in banking during a crisis"	Other	No	N/A	1	
85	ESMA updated Q&As on the BMR Transitional Provision	Other	No	03.5	1	
86	ESMA updates its Q&As relating to the Prospectus Regulation	Other	No	06.2	1	
87	ESMA updated Q&As on Central Securities Depositories Regulation	Other	No	09.2	1	
88	ESMA updated Q&As on EMIR	Other	No	12.3	1	
89	BIS published Working Paper on "An empirical foundation for calibrating the G-SIB surcharge"	Other	No	N/A	1	
Sub-Total						44
Grand Total						89

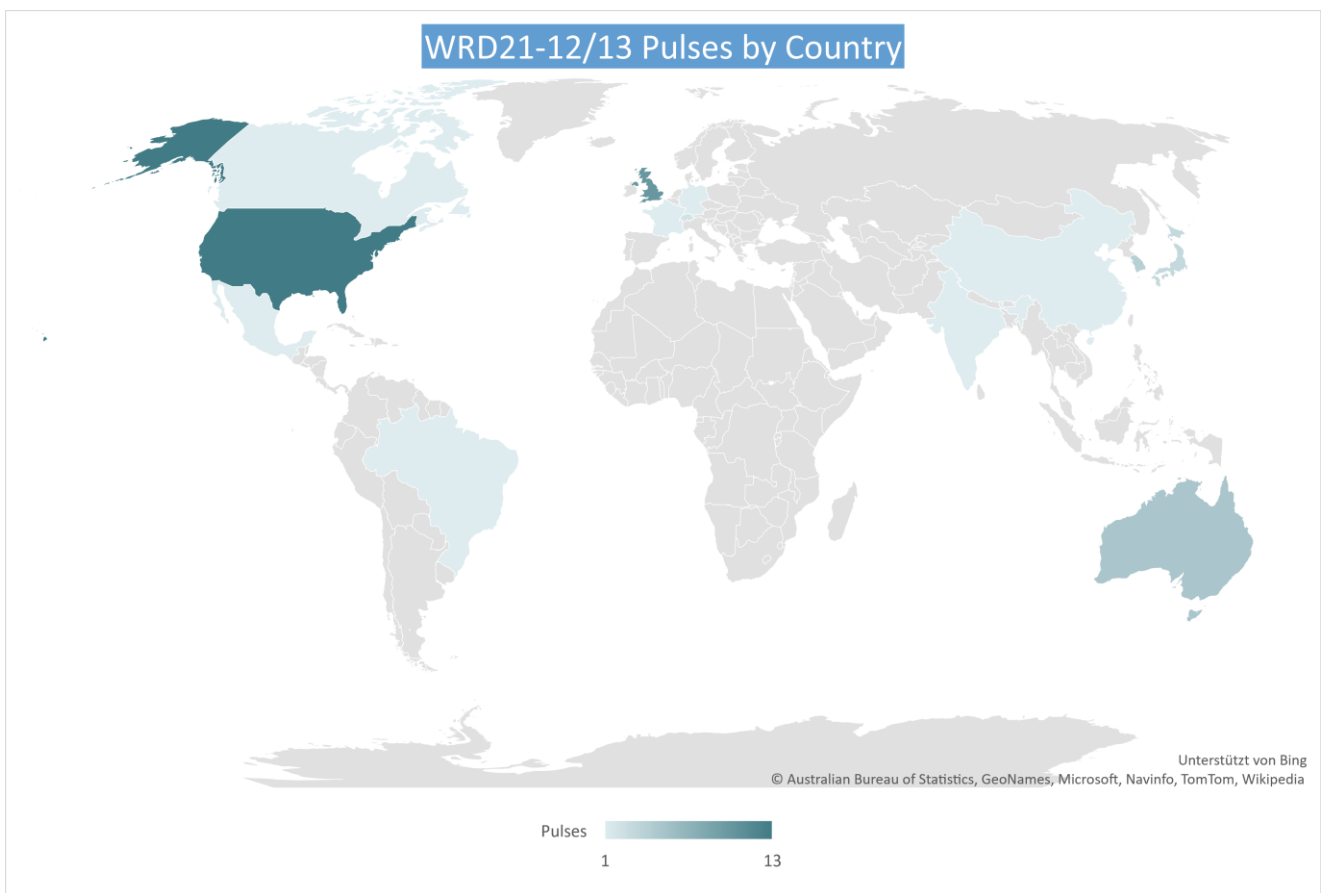
Note: The Flag "IA = Yes" indicates that the regulation / standard specifically addresses the internal audit function

Event: For information only, see cover e-mail; more details available upon request.

WRD # WRD21-13

WRD21-13

Anzahl von Ti Type							Region					
Date	Regulation	Standard	Information	Enforcement	Event	Total	Americas	APAC	EMEA	CH & Li	Int'l	Total
25.03.2021	4	1	1			7	2	2		2	1	7
26.03.2021	5	1	2			12	1	2	9			12
29.03.2021	6	3	3			13	2	4	5		2	13
30.03.2021	9	7	2	1		24	6	6	9	1	2	24
31.03.2021	8	5	8	1		29	4	2	17	1	5	29
01.04.2021	1			2		4	1	3				4
<b>Total</b>	<b>33</b>	<b>17</b>	<b>16</b>	<b>4</b>	<b>19</b>	<b>89</b>	<b>16</b>	<b>19</b>	<b>40</b>	<b>4</b>	<b>10</b>	<b>89</b>



The world map excludes items published by the [EU \(28\)](#) and by [international organizations \(10\)](#)

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## 1. Regulations



25.03.2021

4.1 Corporate and Legal Entity Governance

☐ Key
 ☐ Key – IA Main
 ☒ IA Risk Assessment Process, including audit frequency

#1 MAS published responses to, and new consultation on, Draft Standards for Credit Risk Capital and Output Floor Requirements for Singapore-incorporated Banks

The Monetary Authority of Singapore MAS published a consultation paper CP on draft standards relating to credit risk capital and output floor requirements for Singapore-incorporated banks. This CP follows the CP on draft standards for operational risk capital and leverage ratio requirements issued on 17 December 2020. MAS will consult on the draft standards for other areas of the Basel III reforms at a later date.

- The draft provisions in MAS Notice 637 on Risk Based Capital Adequacy Requirements for Banks Incorporated in Singapore consider standards relating to credit risk capital and output floor requirements in the consolidated Basel Framework, published by the Basel Committee on Banking Supervision, that takes effect from 1 January 2023.
- The draft provisions in MAS Notice 637, relating to credit risk capital and output floor requirements, are appended in Annex B of the CP. As announced by MAS on 7 April 2020, MAS will implement the revised standards for credit risk capital and output floor from 1 January 2023, with transitional arrangements provided for implementation of the output floor till 1 January 2028.
- The draft amendments consider the feedback received on the CP on proposed implementation of the final Basel III reforms in Singapore issued in May 2019 and MAS' response to feedback relating to credit risk capital and output floor requirements published at the same time as this CP.

### Policy / Consultation: 26 April 2021

Consultation Paper P003-2021 • Draft Standards for Credit Risk Capital and Output Floor Requirements for Singapore-incorporated Banks


<https://www.mas.gov.sg/-/media/MAS/News-and-Publications/Consultation-Papers/Consultation-Paper-on-Draft-Standards-for-Credit-Risk-Capital-and-Output-Floor-Requirements.pdf>

570 pages

Response to Feedback Received • Proposed Implementation of the Final Basel III Reforms in Singapore – Credit Risk Capital and Output Floor Requirements

<https://www.mas.gov.sg/-/media/MAS/News-and-Publications/Consultation-Papers/Response-to-Feedback-Proposed-Final-BIII-Reforms-Credit-Risk-Capital-and-Output-Floor-Requirements.pdf>

42 pages



25.03.2021

6.2 Client-related Conflicts of Interest

☐ Key
 ☐ Key – IA Main
 ☐ IA

#2 FMA published Guideline 2021/15 on electronic of metadata under Prospectus Regulation

The Liechtenstein Financial Market Authority FMA published Guideline 2021/15 – Use of the direct form for the submission of metadata of a securities prospectus which provides guidance on the electronic submission of metadata of a securities prospectus by means of a direct form prepared pursuant to the Act Implementing the Prospectus Regulation (EU) 2017/1129 to be published when securities are offered to the public or admitted to trading on a regulated market.

- FMA published FMA Guideline 2019/10 on the details of the approval procedure in the context of the application of the EU Prospectus Regulation 2017/1129 of 14 June 2017. The directly applicable regulation now stipulates that the metadata required for an approval and notification must be transmitted electronically.
- FMA will use a direct form solution for this purpose as of 1 April 2021. Detailed information on the electronic submission of metadata of a securities prospectus is regulated in Guideline 2021/15, which supplements FMA Guideline 2019/10.

### Policy / Final

FMA-Wegleitung 2021/15 –Verwendung des Direktformulars zur Einreichung von Metadaten eines Wertpapierprospekts  
<https://www.fma.li.li/files/list/fma-wegleitung-2021-15-verwendung-direktformular-metadaten-wertpapierprospekt.pdf>  
14 pages



25.03.2021

4.1 Corporate and Legal Entity Governance

☐ Key
 ☐ Key – IA Main
 ☐ IA

#3 FED announced end for most firms of temporary and additional restrictions on BHC dividends and share repurchases

The Federal Reserve Board FED announced that the temporary and additional restrictions on bank holding company BHC dividends and share repurchases currently in place will end for most firms after 30 June 2021, after completion of the current round of stress tests.

- Firms with capital levels above those required by the stress test will no longer be subject to the additional restrictions as of that date. Firms with capital levels below those required by the stress test will remain subject to the restrictions.
- After two rounds of stress tests last year, the FED found that large banks had strong capital levels, which provide a cushion against losses. However, due to economic uncertainty from the COVID event, the FED put temporary and additional restrictions on capital distributions. Those restrictions limit bank dividends and share repurchases to an amount based on income over the past year.



- Normally, a large bank's capital distributions are restricted principally by the FED's *stress capital buffer SCB framework*. The SCB sets *a capital target for each bank* based on its individual stress test results, which requires the bank to *hold at least enough capital to survive a severe recession*. If a firm does not meet that target, automatic restrictions are imposed.
- If a bank remains above all of its minimum risk-based capital requirements in this year's stress test, the additional restrictions will end after 30 June 2021 and it will be subject to the SCB's normal restrictions.
- However, a bank that *falls below* any of its minimum risk-based requirements in the stress test will *remain subject to the additional restrictions for three extra months*, through 30 September 2021.
- If the firm remains below the capital required by the stress test at that time, the framework of the regular SCB regime will impose even stricter distribution limitations.
- For a bank that *is not subject to the stress test this year* and on a two-year cycle, the *additional restrictions will end after 30 June 2021* and its *SCB requirements based on the June 2020 stress test will remain in place*.
- The FED stress tests help ensure that large banks can support the economy during economic downturns. The tests evaluate the resilience of large banks by estimating their losses, revenue, and capital levels under hypothetical scenarios over nine future quarters.
- *Results for this year's test will be released by 1 July 2021.*

## Policy / Final

Press Release: [HTML]

<https://www.federalreserve.gov/newsevents/pressreleases/bcreg20210325a.htm>



**25.03.2021** 8.5 Client Asset Risk Management and Control

☐ Key ☐ Key – IA Main ☐ IA

### #4 DFS Announced Proposed Guidance to New York Insurers on Managing the Financial Risks from Climate Change

The New York State *Department of Financial Services* DFS issued *proposed* detailed *guidance for New York-regulated domestic insurers setting out DFS's expectations related to managing the financial risks from climate change*.

- The proposed guidance builds on the *circular letter* issued by DFS on 22 September 2020, which outlined its *expectations* that *all New York insurers start integrating the consideration of the financial risks from climate change* into their *governance frameworks, risk management processes, and business strategies*, and developing their approach to *climate-related financial disclosure*.
- The *proposed guidance* is the first climate-related guidance issued by a US financial regulator. It is informed by DFS's ongoing dialogue with the insurance industry and international regulators.

- The *proposed guidance* is based on the **New York Insurance Law**, *National Association of Insurance Commissioners NAIC manuals*, and *publications, guidance, and supervisory statements* of international regulators and networks, such as the *Bank of England Prudential Regulation Authority PRA*, the *Network for Greening the Financial System*, the *International Association of Insurance Supervisors IAIS*, the *Sustainable Insurance Forum*, and the *European Insurance and Occupational Pensions Authority EIOPA*.
- Among other things, the *proposed guidance* covers:
  - governance,
  - business models and strategy,
  - risk management,
  - scenario analysis, and
  - public disclosure.
- Each insurer is *expected* to *assess the significance of climate-related financial risks* to its business and take a proportionate approach to managing those risks that reflects its exposure to those risks as well as the nature, scale, and complexity of its business.
- DFS will *continue to develop its supervisory approach* to managing and disclosing climate risks over time, considering US federal and state regulatory developments, as well as evolving practices in the industry and in the international supervisory community.
- Based on the industry's progress and the *impact of climate risks* to insurers, DFS will also *develop a timeframe* by which insurers should have fully embedded their approaches to managing climate risks in their governance structures, risk management frameworks and processes, business strategies, metrics and targets, and disclosure methods.

## Policy / Consultation: 23 June 2021

For Public Comment: Proposed Guidance for New York Domestic Insurers on Managing the Financial Risks from Climate Change  
[https://www.dfs.ny.gov/system/files/documents/2021/03/proposed\\_ins\\_climate\\_guidance\\_2021\\_public\\_comment\\_1.pdf](https://www.dfs.ny.gov/system/files/documents/2021/03/proposed_ins_climate_guidance_2021_public_comment_1.pdf)  
17 pages



**26.03.2021** 3.5 Client Price Setting

☐ Key ☐ Key – IA Main ☐ IA

### #5 PRA and FCA addressed Joint Dear CEO letter on Transition from LIBOR to Risk Free Rates

The UK *Prudential Regulation Authority PRA* and the *Financial Conduct Authority FCA* addressed a *Joint "Dear CEO" Letter on the Transition from LIBOR to Risk Free Rates*. The authorities stress that they had previously written about the *preparations* supervised entities should be making for the cessation of LIBOR.

- Now that *cessation dates for all panel bank LIBOR settings have been confirmed*, the final and critical phase of the *transition* from LIBOR to *Risk Free Rates RFR* has been entered into. It is *imperative* that the *industry continues to build on work undertaken* to date, and in some areas, accelerates efforts.
- The authorities *expect all firms to meet the milestones* of the *Working Group on Sterling Risk Free Reference Rates RFRWG* and the targets of other working groups and relevant supervisory authorities as appropriate.

- The **annex** to the **joint letter** sets out a **list of priority areas** where further action by firms is necessary to prepare for the cessation of LIBOR. This list is **not exhaustive**, and the **onus** is on firms and responsible **Senior Manager Function SMF holder(s)** to **determine the specific actions necessary** to mitigate the risks to safety and soundness arising from their firm's exposures to LIBOR, to ensure good client outcomes and to preserve market integrity.
- The authorities indicated that they have concurrently written separately to the named SMF responsible for oversight of transition at the PRA and FCA firms with the largest and most complex LIBOR exposures to outline the **steps they expect them to take in the remaining time available**.
- The responsible SMFs should satisfy themselves that all appropriate actions are being taken to ensure an orderly transition. As a **key regulatory priority**, the authorities **expect** that this **transition forms part of the performance criteria for determining their variable remuneration**.
- As the final phase of LIBOR transition commences, the PRA and FCA are **intensifying their supervisory focus** on firms' management and oversight of the risks associated with transition. They will use firm meetings, relevant management information and the **LIBOR and RFR exposure data** they collect to assess the firm's transition progress.
- As previously indicated, the authorities are keeping **a range of supervisory tools** under review for use where they see either insufficient progress, or incidents of poor risk management or governance of transition, including relative to the expectations set out in the annex to this letter.

## Policy / Final

### Transition from LIBOR to Risk Free Rates

<https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/letter/2021/march/transition-from-libor-to-risk-free-rates.pdf>  
5 pages



**26.03.2021** 8.4 Product and Service Shelf

☐ Key ☐ Key – IA Main ☐ IA

### #6 ESMA consults on the framework for EU Money Market Funds

The **European Securities and Markets Authority** ESMA launched a **consultation** on **potential reforms of the EU Money Market Funds Regulation MMFR**. ESMA aims to **review the stress** experienced by MMFs during the **March 2020 crisis** and assess the **roles played by markets, investors, and regulation**, and proposes potential reforms.

- ESMA sets out **four types of potential reforms** for MMFs:
  - (i) **Reforms targeting the liability side of MMFs** – such as decoupling regulatory thresholds from suspensions/gates to limit liquidity stress, and to require MMF managers to use liquidity management tools such as swing pricing;
  - (ii) **Reforms targeting the asset side of MMFs** by e.g. reviewing requirements around liquidity buffers and their use;

- (iii) **Reforms targeting both the liability and asset side of MMFs** by reviewing the status of certain types of MMFs such as stable **Net Asset Value NAV** MMFs and **Low Volatility Net Asset Value LVNAV**; and
  - (iv) **Reforms that are external to MMFs themselves** by assessing whether the role of sponsor support should be modified. In addition, ESMA is also gathering feedback from stakeholders on other potential changes, particularly linked to **ratings, disclosure, and stress testing**.
- ESMA will **consider the feedback** it received to this consultation in **Q2 2021** and **expects to publish its opinion** on the review of the MMF Regulation in the **second half of 2021**.
  - **Article 46** of the **MMFR**, requires the EC to **review**, following consultations with ESMA, the **adequacy of the MMFR** from a prudential and economic point of view **by 21 July 2022**.

## Policy / Consultation: 30 June 2021

### Consultation Report EU Money Market Fund Regulation – legislative review

[https://www.esma.europa.eu/sites/default/files/library/esma34-49-309\\_cp\\_mmf\\_reform.pdf](https://www.esma.europa.eu/sites/default/files/library/esma34-49-309_cp_mmf_reform.pdf)  
42 pages



**26.03.2021** 3.5 Client Price Setting

☐ Key ☐ Key – IA Main ☐ IA

### #7 ESMA provided Technical Advice to EU Commission on procedural rules for penalties imposed on Benchmark Administrators

The **European Securities and Markets Authority** ESMA published a **Report** presenting its **Technical Advice TA to the EU Commission EC on procedural rules for penalties imposed on Benchmark Administrators**. ESMA noted that it received a request from the EC on **17 June 2021** to provide TA to assist the EC in formulating **procedural rules for penalties imposed on benchmark administrators** under ESMA's **direct supervision**.

- On **23 December 2020**, ESMA published a **consultation paper CP** to seek stakeholders' input on ESMA's **proposals relating to penalties for benchmark administrators under its direct supervision**.
- This **final report** presents ESMA's TA to the EC on the rules of procedure to impose penalties on these supervised entities **following the assessment** by ESMA **of the feedback received** on the proposals included in the CP and having regard to the requirements set out in the **Level 1**.
- This **final report** is comprised of **four sections** and **one annex**:
  - (i) **Section 1** presents the background.
  - (ii) **Section 2** concerns the scope of the proposed rules.
  - (iii) **Section 3** briefly summarizes the feedback received to the CP.
  - (iv) **Section 4** presents the **different proposals** on the content of the rules of procedure to impose penalties on benchmark administrators under the direct supervision of ESMA. **Section 4** also includes ESMA's **assessment of the feedback received** on the specific proposals that were consulted and the way forward following the assessment of this feedback.



- (v) [Annex I](#) contains the mandate received from the EC.

## Policy / Proposed

Final Report – TA on procedural rules for penalties imposed on Benchmark Administrators

[https://www.esma.europa.eu/sites/default/files/library/esma43-370-281\\_final\\_report\\_on\\_bmr\\_benchmark\\_administrators\\_fines\\_2.pdf](https://www.esma.europa.eu/sites/default/files/library/esma43-370-281_final_report_on_bmr_benchmark_administrators_fines_2.pdf)

33 pages



26.03.2021 8.4 Product and Service Shelf

☐ Key ☐ Key – IA Main ☐ IA

### #8 ESMA advises on framework for data reporting service providers

The European Securities and Markets Authority ESMA published an [advice to the European Commission related to data reporting service providers DRSP](#). The [advice](#) focuses on the [fees, fines and penalties](#) applicable to DRSPs subject to EU supervision as well as the [criteria determining whether certain DRSPs may be exempted](#) from ESMA supervision ([derogation criteria](#)).

- The advice aims to provide a [simple and clear framework](#) by leveraging on the existing frameworks for [Trade Repositories](#) and [Securitization Repositories](#) and by [streamlining the approach for the assessment of the derogation criteria](#).
- Following the ESAs' Review, [authorization and supervision of authorized reporting mechanisms ARMs](#) and [approved publication arrangements APAs](#) will [transfer from competent authorities to ESMA](#).

ESMA recommends a two-step assessment of the derogation criteria

- ESMA agrees with the view expressed by stakeholders that two of the four derogation criteria appear to be more significant for assessing whether the activity of an APA or ARM is of relevance for the internal market.
- Notably, these are the [criteria based on the number of investment firms](#) in another Member State to which the DRSP provides services as well as the one on the [number and volume of transactions](#) reported or published.
- Accordingly, ESMA [proposes a framework for determining DRSPs eligibility for exemption](#) from ESMA supervision where the assessment of more significant criteria is [cumulative](#) while the assessment of the remaining two criteria is [non-cumulative](#).
- In addition, ESMA [carefully and proportionally calibrated](#) the quantitative thresholds which should be applied in the assessment of these criteria.

ESMA recommends leveraging on the existing fees, fines and penalties frameworks

- ESMA proposes both [application and authorization fees](#), as well as an [annual supervisory fee](#) for DRSPs. For that, ESMA draws on the existing fee frameworks for [Trade Repositories](#) and [Securitization Repositories](#).
- ESMA also adopts an [approach for the calculation of fees for 2022](#), the first year of its supervision of DRSPs. It has also proposed a [simplified timeline](#) for payment of the fees.

- In its [technical advice](#) on fines and penalties for DRSPs, ESMA is making [proposals on specific procedural aspects](#) including
    - (i) the right to be heard by the Independent Investigating Officer (IIO);
    - (ii) content of the file to be submitted by the IIO;
    - (iii) access to the file;
    - (iv) procedure for imposing penalties;
    - (v) adoption of interim decisions;
    - (vi) limitation periods for the imposition as well as enforcement of penalties, including their collection; and
    - (vii) the relevant calculation periods.
  - The [final advice](#) builds on the [existing enforcement framework](#) regarding [Trade Repositories](#) and [Credit Rating Agencies](#) as well as on the experience gained in its implementation in the last years.
  - The [final advice](#) also considers the Authority's previous technical advice on procedural rules for imposing fines and penalties to TC-CCPs delivered on [31 March 2020](#).
- 
- After submitting its [technical advice](#) to the EC, ESMA will continue working with the NCAs on a [smooth transfer of supervisory responsibilities](#) for the relevant DRSPs as of [1 January 2022](#).

## Policy / Proposed

Final report – ESMA advice on the criteria for DRSP

<https://www.esma.europa.eu/file/112312/download?token=LcgXRRtu>

38 pages

Final report – Technical advice on ESMA's fees to DRSP

<https://www.esma.europa.eu/file/112313/download?token=wJSfB4NL>

40 pages

Final Report – TA on procedural rules for penalties imposed on DRSPs

<https://www.esma.europa.eu/file/112314/download?token=AZmrlXFT>

35 pages



26.03.2021 9.3 Data Quality and Data Governance

☐ Key ☐ Key – IA Main ☐ IA

### #9 EIOPA consults on revised Guidelines on the use of the Legal Entity Identifier

The European Insurance and Occupational Pensions Authority EIOPA launched a [consultation](#) on [revised Guidelines on the use of the Legal Entity Identifier LEI](#). LEI is now [widely used](#) by the financial industry especially in the EU, not only for [identification of legal entities](#) but also for [data quality purposes](#), supporting activities in the area of [financial stability](#), [oversight and supervision](#) as well as [consumer protection](#).

- Following the introduction of LEI in [2012](#), EIOPA issued its own [Guidelines on the use of the LEI](#) in [October 2014](#). EIOPA identified a [need to review and subsequently revise](#) its current [Guidelines](#) due to several reasons:

- (i) EIOPA's strategy on data and digitalization, including aim to increase data standardization, and ongoing implementation of cross-cutting projects within EIOPA where data quality and assessment of interconnectedness is key;
  - (ii) Reflection of the principle of proportionality;
  - (iii) 2020 ESRB Recommendations on identifying legal entities which are focusing on the LEI as a common identifier;
  - (iv) 2019 FSB Thematic Review on Implementation of the LEI which listed some remaining obstacles which prevented wider LEI adoption.
- The focus of this public consultation refers to the scope (and its clarity) of entities that should have a LEI. The suggested scope is broader than before.
  - Apart from Institutions for Occupational Retirement Provision IORPs and insurance and reinsurance undertakings the context of branches and intermediaries is introduced.
  - The revised Guidelines also consider the need for a better and wider identification of groups of entities as well as third country branches. The revised Guidelines also cover the necessity to use LEI code for identification purposes when competent authorities report to EIOPA.
  - EIOPA is also seeking to feedback from stakeholders regarding the impact assessment in particular on proportionality aspects when it comes to IORPs and intermediaries.

## Policy / Consultation: 30 June 2021

Consultation paper on the proposal for revised Guidelines on the use of Legal Entity Identifier [LEI]

[https://www.eiopa.europa.eu/sites/default/files/publications/consultations/eiopa\\_consultation\\_paper\\_on\\_revised\\_guidelines\\_for\\_lei.pdf](https://www.eiopa.europa.eu/sites/default/files/publications/consultations/eiopa_consultation_paper_on_revised_guidelines_for_lei.pdf)

20 pages



29.03.2021 6.1 Client Suitability

☐ Key ☐ Key – IA Main ☐ IA

### #10 ASIC's CFD product intervention order takes effect

The Australian Securities & Investments Commission ASIC announced that its product intervention order imposing conditions on the issue and distribution of contracts for difference CFDs to retail clients takes effect on 29 March 2021.

- The order strengthens protections for retail clients trading CFDs after ASIC found that CFDs have resulted in, and are likely to result in, significant detriment to retail clients.
- ASIC's order reduces CFD leverage available to retail clients and targets CFD product features and sales practices that amplify retail clients' CFD losses, such as providing inducements to become a client or to trade. It also brings Australian practice into line with protections in force in comparable markets elsewhere.
- The maximum CFD leverage available to retail clients will range from 30:1 to a 2:1, depending on the underlying asset class. Before now, a retail investor's CFD exposure could be as much as 500 times their original outlay.

- The maximum penalty for a contravention of a product intervention order is five years' imprisonment for individuals and substantial pecuniary penalties of up to AUD 555m for corporations.
- If a court finds that a person has contravened a product intervention order, a retail client may recover the amount of loss or damage suffered because of the contravention.
- The product intervention order will remain in force for 18 months, after which it may be extended or made permanent.

## Policy / Final

Press Release: [HTML]

<https://asic.gov.au/about-asic/news-centre/find-a-media-release/2021-releases/21-060mr-asic-s-cfd-product-intervention-order-takes-effect/>

ASIC Corporations (Product Intervention Order—Contracts for Difference) Instrument 2020/986 [for reference, document published on 22 October 2020]

<https://download.asic.gov.au/media/5828629/asic-corporations-product-intervention-order-contracts-for-difference-instrument-2020-986.pdf>

12 pages

Public notice—Product intervention order in relation to contracts for difference [for reference, document published October 2020]

<https://download.asic.gov.au/media/5828628/public-notice-cfd-pip-22102020.pdf>

17 pages



29.03.2021 4.1 Corporate and Legal Entity Governance

☐ Key ☐ Key – IA Main ☐ IA

### #11 ASIC adopted 'no-action' position and re-issues guidelines for virtual meetings

The Australian Securities & Investments Commission ASIC had adopted a 'no-action' position in relation to the convening and holding of virtual meetings. This position is a temporary measure. Modifications to the Corporations Act 2001 to facilitate the convening and holding of meetings using virtual technology were in place under the Corporations (Coronavirus Economic Response) Determination (No. 3) 2020.

- The Determination, which temporarily removed impediments to the use of virtual technology to hold meetings and permitted the dispatch of notices of meeting by electronic means, ceased to have effect on 21 March 2021.
- The government has proposed to extend the measures in the Determination in the Treasury Laws Amendment (2021 Measures No. 1) Bill 2021. The Bill was passed by the House of Representatives on 17 March 2021 but is awaiting debate in the Senate.
- In order to provide the market with a degree of certainty during this time, ASIC's 'no-action' position:
  - supports the holding of meetings using appropriate technology,
  - facilitates electronic notice of meetings including supplementary notices, and
  - allows more public companies an additional 2 months to hold their AGMs.

- The *position* relating to the convening and holding of meetings using virtual technology *applies to meetings held between 21 March 2021 and the earlier of:*
  - 31 October 2021; and
  - The date that any measures are passed by the Parliament relating to the use of virtual technology in meetings of companies or managed investment schemes.
- The position relating to the *2-month deferral of AGMs* applies to entities with financial years ending up to *7 April 2021*.
- ASIC understands the benefit of *hybrid and virtual AGMs* in the current circumstances but recognizes that *appropriate conduct of meetings is important to safeguard the rights of members to participate*.
- Accordingly, ASIC *reissued* its *guidelines for investor meetings* using virtual technology which lapsed with the expiry of the *Determination*. These *guidelines* have been *updated* to reflect the current no-action position.

## Policy / Final

Press Release: [HTML]

<https://asic.gov.au/about-asic/news-centre/find-a-media-release/2021-releases/21-061mr-asic-adopts-no-action-position-and-re-issues-guidelines-for-virtual-meetings/>

Corporations (Coronavirus Economic Response) Determination (No. 3) 2020 [for reference, document published on 21 September 2020]

<https://www.legislation.gov.au/Details/F2020L01194/9779dc55-be4d-4010-80a3-e76948805507>

10 pages

Explanatory Statement [for reference, document published on 21 September 2020]

<https://www.legislation.gov.au/Details/F2020L01194/4c019396-06a5-4b74-9c47-9e147a4d82c3>

4 pages

ASIC guidelines for investor meetings using virtual technology [HTML]

<https://asic.gov.au/about-asic/news-centre/news-items/asic-guidelines-for-investor-meetings-using-virtual-technology/>

- They were launched in 2015 but have *failed to develop as expected*. The *review of the rules* that govern these funds will provide the *opportunity to bring them more closely aligned with the expectations of both institutional and retail investors*.
- For the AMF, this review should be the occasion to ensure that the *development of ELTIFs contributes more to financing the EU economy*, while allowing investors to diversify their savings by gaining access to long-term assets in a secure environment.
- The AMF position paper *proposes* to:
  - raise the *market capitalization threshold* of listed issuers in which ELTIFs are allowed to invest from EUR 500m to EUR 1bn;
  - clarify the eligibility of financial undertakings such as acquisition holding companies and SPVs, in order to allow investment in private-equity schemes;
  - authorize ELTIFs dedicated only to professional investors, providing them with a more flexible structure including, for example, the possibility of using derivatives or creating master-feeder structures;
  - remove the minimum entry threshold of EUR 10k per retail investor, while maintaining the regulatory requirements to advise and conduct suitability tests prior to any marketing to retail investors;
  - *maintain the closed-ended nature* of ELTIFs to ensure consistency between the redemption policy and the liquidity profile of underlying assets, but consider periodic liquidity mechanisms and promote trading venues that are likely to offer secondary markets for ELTIFs; and
  - should the co-legislators decide to allow ELTIFs to offer more frequent redemptions and therefore switch from closed-end to open-end fund status, provide for *strict liquidity management requirements* and entrust the supervision of ELTIFs to ESMA.

## Policy / Proposed

AMF's Proposals to Revitalize European Long Term Investment Funds

<https://www.amf-france.org/sites/default/files/private/2021-03/position-paper-eltif-final-ro.pdf>

3 pages



**29.03.2021** 8.4 Product and Service Shelf

☐ Key ☐ Key – IA Main ☐ IA

### #12 AMF published proposals for the review of the regulation on European long-term investment funds (ELTIF)

The French *Autorité des Marchés Financiers* AMF published *proposals* for the *review of the regulation on European Long-term investment funds ELTIF* to enhance the attractiveness of this type of EU fund for many investors while *maintaining a protective framework for retail investors*.

- ELTIFs provide *long-term finance* to *infrastructure projects, unlisted companies, or listed small and medium-sized enterprises SME* that issue equity or debt instruments.



**29.03.2021** 11.3 Business Continuity & Crisis Management

☐ Key ☐ Key – IA Main ☐ IA

### #13 PRA, FCA and BoE published joint Policy Statement on Operational resilience: Impact tolerances for important business service

The UK *Prudential Regulation Authority* PRA, the *Financial Conduct Authority* FCA and the *Bank of England* BoE in its capacity of supervising *financial market infrastructures* FMIs issued *jointly* their responses to their respective *consultation document* on *Operational resilience: Impact tolerances for important business service*.

- A **key priority** for the supervisory authorities is to put in place a **stronger regulatory framework** to promote the **operational resilience of firms and FMIs**. To this end, the *supervisory authorities* published a **joint Discussion Paper on Operational Resilience** in 2018 setting out an **approach to operational resilience**. Following this, the *supervisory authorities* published a **suite of consultation documents** in December 2019 to embed this approach into policy.
- The **proposals** were designed to **improve the operational resilience of firms and FMIs** and protect the wider financial sector and UK economy from the impact of operational disruptions. The **consultations proposed requirements and expectations** for firms and FMIs to:
  - identify their important business services by considering how disruption to the business services they provide can have impacts beyond their own commercial interests;
  - set a tolerance for disruption for each important business service; and
  - ensure they can continue to deliver their important business services and are able to remain within their impact tolerances during severe (or in the case of FMIs, extreme) but plausible scenarios.
- PRA's **Policy Statement PS** provides **feedback** to responses to **Consultation Paper CP 29/19 Operational resilience: Impact tolerances for important business services**.
- It also contains the PRA's **final policy**, as follows:
  - (i) a **new Operational Resilience Parts** of the PRA Rulebook;
  - (ii) **amendments** to the **Group Supervision Part** of the PRA Rulebook;
  - (iii) a **new Supervisory Statement SS 1/21 'Operational resilience: Impact tolerances for important business services'**; and
  - (iv) a **new Statement of Policy SoP 'Operational resilience'**.
- The PRA received **48 responses** to the CP. There was **general support** for the main components of the policy, consistent with feedback to the **2018 Discussion Paper**.
- Broadly, the comments focused on implementation, proportionality, alignment with the Financial Conduct Authority, alignment with international principles and requests for further detail on PRA expectations.
- The **Operational Resilience Parts** will be **effective from Thursday 31 March 2022**. To comply with the rules, firms should contact their supervisors to agree their plans for meeting policy requirements.
- **SS 1/21** will be **effective from Thursday 31 March 2022**.

## Policy / Final

Operational resilience: Impact tolerances for important business services [Joint document]  
<https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/publication/2021/building-operational-resilience-impact-tolerances-for-important-business-services.pdf>  
 15 pages

Policy Statement PS 6/21 Operational resilience: Impact tolerances for important business services  
<https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/policy-statement/2021/march/ps621.pdf>  
 33 pages

PRA Rulebook: CRR Firms, Solvency II Firms: Operational Resilience Instrument 2021

<https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/policy-statement/2021/march/ps621app1.pdf>  
 13 pages

Supervisory Statement SS 1/21 Operational resilience: Impact tolerances for important business services

<https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/supervisory-statement/2021/ss121-march-21.pdf>  
 17 pages

Statement of Policy – Operational resilience

<https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/statement-of-policy/2021/operational-resilience-march-2021.pdf>  
 9 pages



29.03.2021

11.2 External Third Party Providers

☐ Key ☐ Key – IA Main ☒ IA Risk Assessment Process, including audit frequency

### #14 PRA published Policy Statement on Outsourcing and third-party risk management

The UK Prudential Regulation Authority PRA published a **Policy Statement PS** providing **feedback to responses to Consultation Paper CP on Outsourcing and third-party risk management**; it also contains the PRA's final **Supervisory Statement SS 2/21 'Outsourcing and third-party risk management'**.

- This PS is relevant to:
  - banks, building societies, and PRA-designated investment firms (**banks**);
  - insurance and reinsurance firms and groups in scope of Solvency II, including the Society of Lloyd's and managing agents (**insurers**); and
  - branches of overseas banks and insurers (**third-country branches**).
- PRA received **37 responses** from a range of stakeholders, from PRA-regulated firms to third party service providers. There was **general support** for the proposals.
- Respondents welcomed the PRA's efforts to clarify and **modernize regulatory expectations** in an area where regulation had not kept pace with technological change.
- Firms also **appreciated that the proposals complemented the PRA's policy proposals** on **operational resilience**, given the many synergies between the two areas.
- Respondents noted that the **proposed operational resilience framework** provided a helpful lens for firms to assess how they should monitor their **outsourcing and third-party arrangements** and establish end-to-end resilience for their important business services.
- Overall, responses focus on specific areas rather than calling for a wholesale revision of the overall policy. Details on these are set out in the associated sections of the PS.
- Firms will be **expected to comply with the expectations in the SS by Thursday 31 March 2022**. This is in line with the timing of the PRA's requirements and expectations on operational resilience as set out in **PS 6/21 'Operational resilience: Impact tolerances for important business services'**, which has been published simultaneously with this PS.



- Outsourcing arrangements entered into *on or after* Wednesday **31 March 2021** should *meet the expectations* in the SS by **Thursday 31 March 2022**.
- Firms should *seek to review and update legacy outsourcing agreements* entered into before Wednesday 31 March 2021 at the first appropriate contractual renewal or revision point to *meet the expectations in the SS as soon as possible on or after Thursday 31 March 2022*.

## Policy / Final

Policy Statement PS 7/21 Outsourcing and third-party risk management

<https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/consultation-paper/2021/march/ps721.pdf>

40 pages

Supervisory Statement SS 2/21 Outsourcing and third-party risk management

<https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/supervisory-statement/2021/ss221-march-21.pdf>

40 pages



**29.03.2021** 8.4 Product and Service Shelf

☐ Key ☐ Key – IA Main ☐ IA

### #15 OSFI Seeks Comments on Revisions to the Vested Asset Regime for Foreign Insurance Branches

The Office of the Superintendent of Financial Institutions OSFI addressed a *Letter to Foreign Insurance Branches and Trustees proposing procedural updates to branch requirements intended to reduce administrative requirements on a risk-adjusted basis and ensure OSFI is efficiently collecting the information needed*.

- OSFI noted that in **November 2019**, following a review of the responsibilities and general operating activities of the *Securities Administration and Approvals Reporting Unit SAAR*, it announced the *first in a series of steps to modernize and improve* its Securities Administration regime and processes.
- The **Insurance Companies Act** *requires* foreign companies to maintain in Canada an *adequate margin of assets* in respect of its *insurance business* in Canada. These *assets must be vested in trust in a Canadian financial institution*.
- The vested assets provide assurance that the foreign company is able to meet its obligations to Canadian policyholders. The *Standard Trust Agreement STA* is the *agreement* that establishes the account to hold such assets, and the contractual means for OSFI to obtain information from the Canadian trustee in respect of such assets.
- The STA consists of **two forms**:
  - Form 541** – The Standard Form Trust Agreement
  - Form 542** – The Terms and Conditions of the Standard Form Trust Agreement
- Form 542** includes **three Schedules**:
  - Schedule A** – A list of assets that foreign insurance branches can vest without pre-approval from OSFI

- Schedule B** – Monthly Reporting Requirements for trustees holding assets for foreign insurance branches
- Schedule C** – Annual Declaration for trustees holding assets for foreign insurance branches

#### Amendment 1

- OSFI **proposes** to *revise Schedule A to better reflect its risk tolerance for certain asset classes*. The proposed list will include investment grade debt and securities from the US. OSFI **expects** insurance branches will only request to vest assets outside of this list in exceptional circumstances.

#### Amendment 2

- Requests to *vest non-preapproved assets* to, or release assets from, trust accounts must be accompanied by **OSFI Form 298**. In conjunction with the revision of the Schedule A list of assets, OSFI is *proposing to revise Form 298 to better capture information Supervisors require*. OSFI attached a draft of the revised Form.

#### Amendment 3

- Trustees that hold assets in trust for foreign insurance branches are required to, on or before the **fifteenth of each month**, file with OSFI a *statement of assets* held along with their respective market values. OSFI intends to standardize this process by requiring all filings be submitted via OSFI's *Regulatory Reporting System RRS*. A sample of this format is attached to the *Letter*. Roll out of this feature is still under development and will not commence until later this year.

## Policy / Consultation: 23 April 2021

Press Release: [HTML]

<http://www.osfi-bsif.gc.ca/eng/fi-if/in-ai/Pages/saar.aspx>



**30.03.2021** 13.2 Credit Risk Control Framework

☐ Key ☐ Key – IA Main ☐ IA

### #16 PBC, CBIRC, and MOHURD released Notice on Preventing Illegal Flow of Business Loans into the Real Estate Sector

The Chinese regulators<sup>1</sup> jointly released the *joint Notice on Preventing the Illegal Flow of Business loans into the Real Estate Sector*, in a bid to *prevent the illegal flow of business loans* into the real estate sector. The Notice serves to *implement the decisions and arrangements* of the CPC Central Committee and the State Council on facilitating the stable and healthy development of the real estate market.

- The *Notice urges* banking institutions to further *improve prudence and compliance in business operation and strictly guard* against *illegal flow of business loans* into the real estate sector by:
  - enhancing due diligence of clients,
  - strengthening review of credit demand,
  - improving oversight of loan maturity, collaterals and banks' internal control, as well as
  - reinforcing interim and ex-post loan management.

<sup>1</sup> People's Bank of China PBC's General Administration Department, China Banking and Insurance Regulatory Commission CBIRC's General Office, and Ministry of Housing and Urban Rural Development MOHURD's General Office

- In addition, the *Notice* **requires** the institutions to *strengthen management of financial intermediaries*, build up a *blacklist of violations*, step up on *penalty and accountability*, and *disclose relevant information* regularly.
- The issuance and implementation of the *Notice* is an important measure taken in the principle that *houses are for living in, not for speculation*, aiming at promoting stable and sound development of the real estate market, and improving the quality and efficiency of the financial sector in serving the real economy.
- Next, PBC, CBIRC, and MOHURD will *communicate and coordinate closely* to implement the *Notice*, and resolutely crack down on the illegal flow of business loans into the real estate sector.

## Policy / Final

Press Release: [HTML]

<http://www.pbc.gov.cn/en/3688110/3688172/4157443/4219307/index.html>

### 30.03.2021 3.5 Client Price Setting

☐ Key ☐ Key – IA Main ☐ IA

#### #17 HKMA issued Circular on Interim Reporting Guidelines for Alternative Reference Rates

The Hong Kong Monetary Authority HKMA addressed a *Circular* letter to the *Chief Executive* of all *authorized institutions* Als informing them that it has *received some enquiries about the reporting of alternative reference rate ARR positions in relation to returns MA(BS) 12A* “Interest Rate Risk in the Banking Book”, *MA(BS) 12B* “Interest Rate Risk in the Banking Book (Supplementary Information)” and *MA(BS) 12* “Interest Rate Risk Exposures”.

- Given the evolution of new *ARR conventions* resulting from the progressing *interest rate benchmark reform*, the HKMA will soon look into comprehensively reflecting these by *updating the Supervisory Policy Manual SPM module IR-1* “Interest Rate Risk in the Banking Book” (IRRB) and the completion instructions for the relevant returns.
- The *Circular* includes *interim reporting guidelines* to facilitate the *regulatory reporting for ARRs* for the time being.
- These *interim reporting guidelines* are expected to be in effect until the SPM module IR-1 and the completion instructions for the relevant returns are updated.

## Policy / Final

Alternative Reference Rates: Interim Reporting Guidelines

<https://www.hkma.gov.hk/media/eng/doc/key-information/guidelines-and-circular/2021/20210330e1.pdf>  
3 pages



### 30.03.2021 13.1 Market Risk Control Framework

☐ Key ☐ Key – IA Main ☐ IA

#### #18 FSC informed about short selling rules in the revised FSCMA to be effective from 6 April 2021

The Korean *Financial Services Commission* FSC informed that the government *approved* the *revisions to the Enforcement Decree of the Financial Investment Services and Capital Markets Act FSCMA*. The *amendments* and the *revised FSCMA* will take effect on **6 April 2021**.

- **Amendments** to the revised FSCMA include:
  - **Penalty standards** – The revised FSCMA created the *imposition of penalty surcharges* on *illegal short sale activities*. Specific amounts for monetary sanctions will be determined through *comprehensive consideration of the total amount of short orders and profits* gained from the illegal short sale activity.
  - **Record keeping requirement on securities lending agreements** – The revised FSCMA **requires** short sellers to keep their *securities lending agreements for five years* to be presented promptly to the relevant authorities upon request.  
As such, the **Enforcement Decree** will be revised to prescribe *specific criteria* to be *maintained*, including information on stock items, number of shares, transaction dates, counterparties, lending periods, fee rates, etc.  
The **Enforcement Decree** also requires the *maintenance of transactions data stored in an electronic transaction processing platform* or other format that is not susceptible for alteration.
  - **Restriction on short sellers’ participation in capital increase** – The revised FSCMA **restricts** short sellers from participating in a company’s capital increase via issuing new shares once the company has made such a plan public, except in certain cases.  
As such, the **Enforcement Decree** will be revised to determine a *specific time period* wherein the *short seller’s participation in capital increase is restricted* as well as specific cases for exception as specified below. If an investor has shorted a company’s stocks during the restriction period, the investor cannot participate in the company’s capital increase, except for the cases where the short selling is deemed to have no unjust effects on the issuing price as stated below.
    - ❖ **Restriction Period**: From one day after the disclosure of the company’s capital increase plan until the determination of the issuing price
    - ❖ **Exceptional Cases**:
      - (i) Purchase of new shares exceeding the amount of short positions between the time of the last short sale and the determination of the issuing price,
      - (ii) participation in capital increase by trading units within a firm that operates separate trading units pursuant to the standards specified by the FSC that have no records of short selling the company’s stocks, and



- (iii) short selling for market making or liquidity provision purposes.

## Policy / Final

Press Release:

<https://www.fsc.go.kr/eng/pr010101/75649>

1 page



30.03.2021 13.2 Credit Risk Control Framework

☐ Key ☐ Key – IA Main ☐ IA

### #19 FSC Announced Authorities to Closely Monitor Illegal and Suspicious Activities Linked to Property Market Speculation

The Korean *Financial Services Commission* FSC announced that a **kick-off meeting of the special financial response team took place as a part of the government-wide effort to root out speculation in the real estate market**. The *financial response team* will be chaired by the *Vice Chairman of the FSC* and made up of about *one hundred officials* from the *Korea Financial Intelligence Unit KoFIU*, *Financial Supervisory Service FSS*, *Korean Federation of Banks*, and *Korea Credit Information Services*.

- The *team* will serve as a *financial sector control tower* in the government's efforts to *prevent speculation in the real estate market*. More specifically, the *special financial response team* will carry out *inspections* on *lending practices*, *suspicious transactions* and so on while also looking into areas for *regulatory improvements*.
- At the meeting, *Vice Chairman Doh* stated that *controlling speculation in the property market remains one of the top priorities* of the financial sector and laid out following agendas for the operation of the team.
  - *First*, the authorities will carry out *inspections* on existing loans that are suspected to be linked to speculation and report immediately to the investigative authority upon finding any unlawful activities.
  - *Second*, in close coordination with the *real estate market monitoring agency* that is soon to be established, the authorities will set up a *monitoring system* that targets particular regions and financial institutions with sudden hikes in suspected cases. Until then, the KoFIU will maintain close monitoring and share relevant information with the investigative authority.
  - *Third*, there will be *stringent penalties* without exception when violations are found in the process of issuing land loans.
  - *Fourth*, the authorities will work to *improve the relevant rules* on *non-housing mortgage loans* and include the measures in the household debt management plan that is expected to be announced in *April 2021*.

## Policy / Final

Press Release:

<https://www.fsc.go.kr/eng/pr010101/75653>

1 page



30.03.2021 13.2 Credit Risk Control Framework

☐ Key ☐ Key – IA Main ☐ IA

### #20 RBI Published Amendments to Prudential Guidelines on Bilateral Netting of Qualified Financial Contracts

The *Reserve Bank of India* RBI notified *amendments to Prudential Guidelines in respect of bilateral netting of qualified financial contracts QFC*, following the enactment of the **Bilateral Netting of Qualified Financial Contracts Act, 2020**. The Act provides a *legal framework for enforceability of bilateral netting* of QFC.

- In application of the Act, RBI adopted (i) *“derivatives”*, and (ii) *“repo”* and *“reverse repo”* transactions as qualifying under **section 45(U) of Chapter III-D of the Reserve Bank of India Act, 1934** as a *QFC*.
- Accordingly, *select instructions* contained in the following *circulars* have been modified/ amended appropriately:
  - (i) *Master Circular DBR.No.BP.BC.1/21.06.201/2015-16* dated 1 July 2015 on ‘*Basel III Capital Regulations*’;
  - (ii) *Circular DBR.BP.BC.No.106/21.04.098/2017-18* dated 17 May 2018 on ‘*Basel III Framework on Liquidity Standards – Net Stable Funding Ratio (NSFR) – Final Guidelines*’;
  - (iii) *Master Circular DBR.No.BP.BC.2/21.04.048/2015-16* dated 1 July 2015 on ‘*Prudential norms on Income Recognition, Asset Classification and Provisioning pertaining to Advances*’; and
  - (iv) *Master Circular DBR.No.BP.BC.4./21.06.001/2015-16* dated 1 July 2015 on *Prudential Guidelines on Capital Adequacy and Market Discipline-New Capital Adequacy Framework (NCAF)*.
- The revised instructions *come into force with immediate effect*.

## Policy / Final

Bilateral Netting of Qualified Financial Contracts- Amendments to Prudential Guidelines [document includes links to the referenced Circulars]

<https://rbidocs.rbi.org.in/rdocs/notification/PDFs/115BILATERAL914F4BE404BB44729CD1CE12478BBED0.PDF>

2 pages



30.03.2021 3.5 Client Price Setting

☐ Key ☐ Key – IA Main ☐ IA

### #21 FMA published Guideline 2021/2 on the determination of the calculation methodology of the benchmark interest rate in accordance with HIKG

The *Liechtenstein Financial Market Authority* FMA according to the **Mortgage and Real Estate Credit Act (HIKG)** must set in a **guideline the calculation methodology for the determination of the benchmark interest rate**. For this purpose, FMA is publishing **Guideline 2021/2**. The guideline is *effective as from 1 April 2021*.

- FMA must specify the benchmark interest rate in a guideline, pursuant to **Art. 21(3) HIKG**, for the purposes of **Annex 2, Part B, Section 4(2)(c)**.

- To reflect the *dynamic nature* of the *standard*, FMA refers to the *SNB benchmark interest rate* the arithmetic mean of the SNB target range for the three-month Libor in CHF for the period prior to 13.6.2019 and *sets the calculation method of the benchmark interest rate in line with the requirements of the European Banking Authority EBA*.
- For the calculation of the benchmark interest rate, institutions shall apply the *calculation formula* set out in the *Annex* to the *Decision* of the EBA on *setting the benchmark interest rate* in accordance with *Annex II to Directive 2014/17/EU* (the Mortgage Credit Directive).

## Policy / Final

FMA-Richtlinie 2021/2 – Festsetzung des Benchmarkzinssatzes gemäss Art. 21 Abs.3 iVm Anhang 2 Teil B Abschnitt 4 Abs. 2 Bst. c HIKG  
<https://www.fma.li/files/list/fma-richtlinie-2021-2-festsetzung-hikg-benchmark-zinssatz.pdf>  
2 pages



**30.03.2021** 2.1 Employment Law and HR Practices

☐ Key ☐ Key – IA Main ☐ IA

### #22 BaFin consults on circular on online announcements of appointments of managing directors and members of supervisory bodies

The German *Federal Financial Supervisory Authority* BaFin has put out for *consultation* its *draft circular on the use of the reporting and publication platform (Melde- und Veröffentlichungsplattform MVP) for companies not supervised by the European Central Bank (ECB)*.

- Companies that notify *appointments of managing directors* and *members of administrative and supervisory bodies* online will then *no longer need to submit an additional paper-based notification* in accordance with the *Notification Ordinance AnzV*.
- For the future, it is planned that *notifications of intended appointments* and of the *resignation* of managing directors will also be made possible via this channel. BaFin will inform about the rollout via newsletter.
- The *consultation* will be conducted *exclusively by textual procedure* without an oral hearing. BaFin intends to publish the submitted comments on the Internet. For this purpose, participants in the consultation are requested to also declare their consent to publication and disclosure to third parties in their comments.

## Policy / Consultation: 19 April 2021

Konsultation des Entwurfs eines Rundschreibens über die Eröffnung der Möglichkeit zur elektronischen Einreichung von Personenanzeigen über die Melde- und Veröffentlichungsplattform der BaFin (MVP) [HTML]  
[https://www.bafin.de/SharedDocs/Veroeffentlichungen/DE/Konsultation/2021/kon\\_02\\_21\\_Anschreiben.html](https://www.bafin.de/SharedDocs/Veroeffentlichungen/DE/Konsultation/2021/kon_02_21_Anschreiben.html)



**30.03.2021** 12.3 Regulatory Reporting

☐ Key ☐ Key – IA Main ☐ IA

### #23 ESMA proposes amendments to MiFIR transactions and reference data reporting regimes

The *European Securities and Markets Authority* ESMA published the *Final Report on the review of transaction and reference data reporting obligations under MiFIR*. The *final report* contains *recommendations* and *possible legislative amendments* to MiFID II/ MiFIR with a view to *simplifying the current reporting regimes* whilst ensuring quality and usability of the reported data.

- The report *aims* to achieve this through:
  - The replacement of the *trading on a trading venue* TOTV concept with the *Systematic Internalizer SI* approach for *OTC derivatives*, taking into account the conclusions of ESMA's *Final Report on the transparency regime for non-equity instruments and the trading obligation for derivatives*;
  - The removal of the short sale indicator;
  - The alignment with reporting regimes such as MAR, EMIR and the Benchmark Regulation;
  - The reliance on international standards, including LEIs, ISINs and CFIs; and
  - The *inclusion of three additional data elements* with a view to harmonize the way they are reported and avoid inconsistent and duplicative reporting of the same information at the national level. In particular, these are indicators for:
    - ❖ Buyback programs;
    - ❖ Information on MiFID II client categories; and
    - ❖ Transactions pertaining to aggregated orders.
- ESMA's *recommendations* are *particularly relevant for trading venues, systematic internalizers, investment firms, data reporting services providers, and asset management companies*.
- Based on these *recommendations*, the *EU Commission* is *expected* to *adopt legislative proposals*. ESMA is ready to provide additional technical advice on the proposals contained in this report.

## Policy / Proposed

Final Report – MiFIR review report on the obligations to report transactions and reference data

[https://www.esma.europa.eu/sites/default/files/library/esma74-362-1013\\_final\\_report\\_mifir\\_review\\_-\\_data\\_reporting.pdf](https://www.esma.europa.eu/sites/default/files/library/esma74-362-1013_final_report_mifir_review_-_data_reporting.pdf)  
105 pages



**30.03.2021** 4.1 Corporate and Legal Entity Governance

☐ Key ☐ Key – IA Main ☐ IA

### #24 CVM enacted transition rule for compliance with the advance notice period for general meetings

The Brazilian *Comissão de Valores Mobiliários* CVM published *Resolution CVM 25*, which allows publicly held companies to continue to observe the minimum 15-day advance period for convening general meetings, provided that such meetings have already been or will be convened by 30 April 2021.

## Provisional Measure

- The rule is inserted in the context of the publication of **Provisional Measure 1.040/21**, which foresees *several measures aimed at improving the business environment* in Brazil, among which is the *amendment of Law 6.404*, to *extend the minimum period* of advance notice for general meetings of publicly held companies to **30 days**.
- Although it considers this to be a positive measure for the capital market, CVM identified the need to *temporarily*, based on the competence that the Provisional Measure itself attributes to it, *allow companies to maintain their original plans with respect to meetings whose occurrence is imminent*.
- In addition to bringing more *predictability*, the *transitory rule* seeks to *prevent cases of potential incompatibility of deadlines*, because for many companies, the compliance with the extended period of advance notice could result in not holding the ordinary general meetings within four months after the closing of the fiscal year, which is also a legal obligation.

## Regulatory Agenda

- **Resolution CVM 25** addresses in a punctual and specific way only one of the subjects that was amended by **Provisional Measure 1040/21**. The *Provisional Measure* itself attributes competence to CVM to regulate some of the other changes made to **Law 6,404**, which will be done in due course, as already foreseen in the **2021 regulatory agenda** of the Authority.

## Policy / Final

Press Release: [HTML]

<https://www.gov.br/cvm/pt-br/assuntos/noticias/cvm-edita-regra-de-transicao-para-observancia-do-prazo-de-antecedencia-de-convocacao-de-assembleias-gerais>

Resolução CVM 25 Dispõe sobre regra transitória para aplicação do disposto no art. 124, § 1º, II da Lei nº 6.404, de 15 de dezembro de 1976

<http://conteudo.cvm.gov.br/export/sites/cvm/legislacao/resolucoes/anexos/001/resol025.pdf>

1 page



**31.03.2021** 5.1 AML / KYC

☐ Key ☐ Key – IA Main ☐ IA

### #25 JFSA to Implement Notification of Originator and Beneficiary Information upon Crypto Assets Transfer (Travel Rule)

The Japan Financial Services Agency JFSA addressed a **Request** to the Japan Virtual and Crypto assets Exchange Association JVCEA to *keep the member firms of the association well informed on the requirements for the Notification of Originator and Beneficiary Information upon Crypto Assets Transfer (i.e., the Travel Rule) and that JVCEA provides support to the member firms in making efforts in this area*.

- *Cooperation among jurisdictions* around the world is critical in implementing anti-money laundering and counter terrorist financing AML / CFT measures, and the *Financial Action Task*

Force FATF has developed *international standards* **FATF Standards** for the implementation of these measures.

- In Japan, following the FATF Standards, the **Act on Prevention of Transfer of Criminal Proceeds and the Guidelines for Anti-Money Laundering and Combating the Financing of Terrorism** *requires* crypto-asset exchange service providers **CESPs** to take *various measures*.
- **Article 23, Paragraph 1, Item 1** of the “**Cabinet Office Ordinance on Crypto-Asset Exchange Service provider**” based on **Article 63-10** of the **Payment Services Act** also *requires* them to *establish a regime that is necessary for the proper and secure conduct of the crypto-asset businesses*.
- From the perspective of implementing effective AML / CTF measures through international cooperation, Japanese CESPs are also *required* to *appropriately implement a framework to fulfil the notification of information on the crypto assets transfer*, i.e. the so-called **Travel Rule**.
- As JVCEA is also considering the introduction of **self-regulatory rules** regarding the **travel rule** by **April 2022**, JFSA **request** that CESPs promptly proceed with consideration to the appropriate implementation of the rule to solve early technical and operational challenges, and swiftly establish this regime.

## Policy / Final

Press Release: [HTML]

<https://www.fsa.go.jp/en/news/2021/20210331/20210331.html>

Request to the Japan Virtual and Crypto assets Exchange Association (JVCEA)

<https://www.fsa.go.jp/en/news/2021/20210331/01.pdf>

2 pages



**31.03.2021** 4.1 Corporate and Legal Entity Governance

☐ Key ☐ Key – IA Main ☐ IA

### #26 FSC Consults on Supervisory Regulation Following Legal Framework on the Supervision of Non-holding Groups

The Korean Financial Services Commission FSC introduced the *supervisory regulation on non-holding financial groups as a final step in setting up the legal framework on the supervision of financial conglomerates*.

- The FSC first introduced the *best practice guidelines on the supervision of financial conglomerates* in **July 2018** and has carried out *oversight* on the financial soundness of non-holding financial groups through *administrative guidance*.
- The **enactment** of the new **legislation (Act)** in **December 2020** paved the way for establishing *legal foundations* for the supervision of non-holding financial groups.
- As the **Act** is scheduled to *go into effect on 30 June 2021*, the authorities will put up the **supervisory regulation** for *advance notice from 1 April 2021 to 21 April 2021*, scheduled to go into effect on the same day as the Act after an approval from the FSC.
- The **supervisory regulation** contains *specific details about the designation of non-holding groups, internal control and risk management requirements, capital adequacy standards, rules and procedures for reporting and disclosure and assessment criteria for risk management*.

- The new legal framework on the supervision of financial conglomerates takes into account *international standards* as well as the *regulatory experiences* gained from the past two years.
- The authorities expect that the new Act will *help enhance the management of group-wide risks in a more systematic and effective way*, thereby allowing a more preemptive management of systemic risks in the financial markets.

## Policy / Consultation: 21 April 2021

Press Release:

<https://www.fsc.go.kr/comm/getFile?srvcId=BBSTY1&upperNo=75661&fileTy=ATTACH&fileNo=2>

1 page



31.03.2021 12.3 Regulatory Reporting

☐ Key ☐ Key – IA Main ☐ IA

### #27 FCA released PS on Extension of Annual Financial Crime Reporting Obligation

The UK Financial Conduct Authority FCA released a *policy statement PS* summarizing our *proposal to increase the number of firms who need to submit the annual financial crime report*, referred to as 'REP-CRIM'.

- Following the *consultation* in August 2020, the FCA is *increasing the number of firms* that need to submit a REP-CRIM return from approximately 2,500 to approximately 7,000. FCA based its assessment of *which firms this extension will apply on FCA's understanding of the potential money laundering risks*.
- This PS proposes that *additional firms and cryptoasset businesses* should be brought into scope of the return based on their business activities and the *potential money laundering risks*.
- REP-CRIM provides FCA information on a range of indicators that reflect the potential money laundering risks of firms' based on their regulated activity and helps us to supervise firms.
- In the 2020/21 Business Plan, FCA indicated that it would consider extending the REP-CRIM reporting obligation to more firms. Reviewing its policy allows FCA to keep up to date with changes in legislation such as cryptoasset businesses now falling within the scope of the MLRs.
- FCA has *statutory objectives* under the **Financial Services and Markets Act** to protect and enhancing the integrity of the UK financial system.
- Firms that will be brought into the scope of REP-CRIM for the first time will need to be prepared to submit the return when it is due.

## Policy / Final

Policy Statement PS 21/4 Extension of Annual Financial Crime Reporting Obligation

<https://www.fca.org.uk/publication/policy/ps21-4.pdf>

23 pages



31.03.2021 8.4 Product and Service Shelf

☐ Key ☐ Key – IA Main ☐ IA

### #28 EC launched targeted consultation on instant payments

The EU Commission EC launched a *targeted consultation on instant payments* aimed to *collect information of technical nature* from *payment service providers* PSPs and providers of technical services supporting the provision of instant payments. This will be in addition to information they will provide in the context of the open public consultation that will be addressed to all stakeholders.

- This *targeted consultation* will inform the EC on *remaining obstacles* as well as *possible enabling actions* that it could take to ensure a wide availability and use of instant payments in the EU.
- The consultation will also enable the EC to *decide on whether EU coordinated action and / or policy measures are warranted* to ensure that a critical mass of EU PSPs offer instant credit transfers.
- This targeted consultation also *seeks to identify factors that would be relevant for fostering customer demand towards instant credit transfer services*.

## Policy / Consultation: 2 June 2021

Consultation Document – Targeted Consultation on Instant Payments

[https://ec.europa.eu/info/sites/info/files/business\\_economy\\_eu\\_ro/banking\\_and\\_finance/documents/2021-instant-payments-targeted-consultation-document\\_en.pdf](https://ec.europa.eu/info/sites/info/files/business_economy_eu_ro/banking_and_finance/documents/2021-instant-payments-targeted-consultation-document_en.pdf)

13 pages



31.03.2021 4.1 Corporate and Legal Entity Governance

☐ Key ☐ Key – IA Main ☐ IA

### #29 EBA launched public consultation on regulatory technical standards on disclosure of investment policy by investment firms

The European Banking Authority EBA published a *consultation paper CP* on *draft regulatory technical standards RTS on disclosure of investment policy by investment firms*. The draft RTS put forward *comparable disclosures* that should *help stakeholders understand investment firms' influence over the companies in which they have voting rights* and the impact of investment firms' policies on aspects such as the *governance or management* of those companies.

- The draft RTS put forward *templates and tables* for the *disclosure of information on the investment firm's voting behavior, explanation of the votes, and the ratio of approved proposal*, with the *objective* to *show if the investment firm is an active shareholder* that generally uses its voting rights, and how it uses them.
- The draft RTS also include *information on the use of proxy advisory firms* that should help address uncertainties about *potential conflicts of interest*. Finally, they include *information on investment firms' voting guidelines*, including, when relevant, a *breakdown by geographical zone, economic sector or topic of the resolution being voted*.



- These **disclosure requirements** apply to **class 2 investment firms** with **total assets above EUR 100m**. These firms will have to disclose this information in relation to those companies whose shares are admitted to trading on a regulated market and in which the **proportion of voting rights exceeds 5 % of all voting rights** issued by the company.

## Policy / Consultation: 1 July 2021

Consultation Paper – Draft Regulatory Technical Standards on disclosure of investment policy by investment firms under Article 52 of Regulation (EU) 2019/2033 on the prudential requirements of investment firms

[https://www.esma.europa.eu/sites/default/documents/files/document\\_library/Publications/Consultations/2021/Consultation%20on%20draft%20RTS%20on%20disclosure%20of%20investment%20policy%20by%20investment%20firms/972104/CP%20Draft%20RTS%20on%20disclosure%20of%20investment%20policy%20by%20investment%20firms.pdf](https://www.esma.europa.eu/sites/default/documents/files/document_library/Publications/Consultations/2021/Consultation%20on%20draft%20RTS%20on%20disclosure%20of%20investment%20policy%20by%20investment%20firms/972104/CP%20Draft%20RTS%20on%20disclosure%20of%20investment%20policy%20by%20investment%20firms.pdf)

18 pages

Annex I – Disclosure of investment policy by investment firms [Excel]

[https://www.esma.europa.eu/sites/default/documents/files/document\\_library/Publications/Consultations/2021/Consultation%20on%20draft%20RTS%20on%20disclosure%20of%20investment%20policy%20by%20investment%20firms/972103/Annex%20I%20-%20Disclosure%20of%20investment%20policy%20by%20investment%20firms.xlsx](https://www.esma.europa.eu/sites/default/documents/files/document_library/Publications/Consultations/2021/Consultation%20on%20draft%20RTS%20on%20disclosure%20of%20investment%20policy%20by%20investment%20firms/972103/Annex%20I%20-%20Disclosure%20of%20investment%20policy%20by%20investment%20firms.xlsx)

Annex II – Instructions on disclosure of investment policy by investment firms

[https://www.esma.europa.eu/sites/default/documents/files/document\\_library/Publications/Consultations/2021/Consultation%20on%20draft%20RTS%20on%20disclosure%20of%20investment%20policy%20by%20investment%20firms/972105/Annex%20II%20-%20Instructions%20on%20disclosure%20of%20investment%20policy%20by%20investment%20firms.pdf](https://www.esma.europa.eu/sites/default/documents/files/document_library/Publications/Consultations/2021/Consultation%20on%20draft%20RTS%20on%20disclosure%20of%20investment%20policy%20by%20investment%20firms/972105/Annex%20II%20-%20Instructions%20on%20disclosure%20of%20investment%20policy%20by%20investment%20firms.pdf)

10 pages



31.03.2021 4.1 Corporate and Legal Entity Governance

☐ Key ☐ Key – IA Main ☐ IA

### #30 ESMA clarifies corporate disclosures obligations for UK issuers after Brexit

The European Securities and Markets Authority ESMA published a **statement concerning the application of transparency requirements by UK issuers** with securities admitted to trading on regulated markets in the EU, now third country issuers, under the **Transparency Directive (TD)**.

- The **aim** of the **statement** is to ensure a **common supervisory approach** by all **National Competent Authorities** NCAs concerning the application of the **accounting frameworks** used by UK issuers, in relation to **consolidated and individual financial statements** of single and group entities.
- The **statement highlights** that, from **1 January 2021**, UK issuers **may use** the **International Financial Reporting Standards IFRS**, as endorsed by the EU, or as issued by the **International Accounting Standards Board IASB**, amongst other accounting standards, when complying with their TD obligations for consolidated financial statements and individual financial statements of single entities.

- UK group issuers **may also use UK GAAP** when complying with their obligations for parent individual financial statements. When providing information on dividends computation and, where applicable, minimum capital requirements.
- NCAs, under the TD, **may exempt UK issuers from the application of EU law provided that third country law sets out equivalent requirements**. As UK issuers are no longer subject to EU law, the accounting frameworks used by UK issuers when publishing their financial reports in accordance with the TD should be vetted by NCAs.
- NCAs will monitor the compliance of UK issuers with this statement.

## Policy / Final

Public Statement – Brexit: Clarifications on the application of the TD requirements by UK issuers with securities admitted to trading on regulated markets in the EU

<https://www.esma.europa.eu/file/112394/download?token=4Zd5yxT>

3 pages



31.03.2021 6.1 Client Suitability

☐ Key ☐ Key – IA Main ☐ IA

### #31 ESMA promotes coordinated action on the suspension of best execution reports

The European Securities and Markets Authority ESMA issued a **Public Statement** to **promote coordinated action by National Competent Authorities NCAs under MiFID II**. The **statement** relates to the **temporary suspension** of the obligation on execution venues to make available to the public **data related to the quality of execution of transactions on their venues** (RTS 27 Reports).

- The **Directive** amending **MiFID II**, under the **Capital Markets Recovery Package**, states that **these reports are rarely read and do not enable investors and other users to make any meaningful comparisons** based on the information they contain.
- Following the adoption of this **Directive** on **16 February 2021**, ESMA and NCAs have **observed a lack of clarity among market participants** on the application date of the **suspension of the obligation to publish RTS 27 reports**.
- ESMA therefore published this **statement** to **provide clarity on the application date of the suspension**. Moreover, considering the rationale of the suspension, ESMA **expects** NCAs **not to prioritize supervisory actions** towards execution venues relating to the obligation to publish the RTS 27 reports, **until the date on which the national transposition measures apply**.

## Policy / Final

Public Statement – Application of the temporary suspension of the obligation to publish RTS 27 reports

[https://www.esma.europa.eu/sites/default/files/library/esma35-43-2632\\_statement\\_suspension\\_rts\\_27.pdf](https://www.esma.europa.eu/sites/default/files/library/esma35-43-2632_statement_suspension_rts_27.pdf)

2 pages



31.03.2021 4.1 Corporate and Legal Entity Governance

☐ Key ☐ Key – IA Main ☐ IA

### #32 FED adopted final rule outlining and confirming the use of supervisory guidance for regulated institutions

The *Federal Reserve Board* FED adopted a **final rule outlining and confirming the use of supervisory guidance for regulated institutions**. The *final rule* generally *codifies a statement* issued in *September 2018 clarifying the differences between regulations and guidance* and is substantially similar to the proposal issued last year.

- Unlike a law or regulation, *supervisory guidance does not have the force and effect of law*, and the agencies do not take enforcement actions based on supervisory guidance. Rather, *guidance outlines expectations and priorities*, or articulates *views* regarding *appropriate practices* for a specific subject.
- The *rule will be effective 30 days after publication in the Federal Register* and *mirrors the rules issued by the Consumer Financial Protection Bureau CFPB, the Federal Deposit Insurance Corporation FDIC, the National Credit Union Administration NCUA, and the Office of the Comptroller of the Currency OCC*.

## Policy / Final

Role of Supervisory Guidance

<https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20210331a1.pdf>

26 pages



1.04.2021 5.1 AML / KYC

☐ Key ☐ Key – IA Main ☐ IA

### #33 FinCEN Consults Regulatory Process for New Beneficial Ownership Reporting Requirement

The US *Financial Crimes Enforcement Network* FinCEN issued an *Advance Notice of Proposed Rulemaking ANPRM to solicit public comment on a wide range of questions related to the implementation of the beneficial ownership information reporting provisions of the Corporate Transparency Act (CTA)*.

- This ANPRM is the *first in a series* of regulatory actions that FinCEN will undertake to implement the **CTA**, which is included within the **Anti-Money Laundering Act of 2020 (AML Act)**. The AML Act is part of the **FY 2021 National Defense Authorization Act**, which became law on **1 January 2021**.
- The **CTA amended** the **Bank Secrecy Act** to **require** corporations, limited liability companies, and similar entities to *report certain information about their beneficial owners* (the individual natural persons who ultimately own or control the companies).
- This *new reporting requirement* will *enhance the national security* of the US by making it more difficult for malign actors to exploit opaque legal structures to launder money, finance terrorism, proliferate weapons of mass destruction, traffic humans and drugs, and commit serious tax fraud and other crimes that harm the American people.
- The **CTA requires** FinCEN to *maintain the reported beneficial ownership information in a confidential, secure, and non-public database*. Furthermore, the **CTA authorizes** FinCEN to *disclose* beneficial ownership information subject to appropriate protocols and for specific purposes to several categories of recipients, such as *federal law enforcement*.
- Finally, the **CTA requires** FinCEN to *revise existing financial institution customer due diligence regulations concerning beneficial ownership to consider the new direct reporting of beneficial ownership information*.
- FinCEN strongly encourages all interested parties, particularly those that would be affected by the beneficial ownership information reporting provisions or would seek access to reported beneficial ownership information, to submit written comments.
- Such written comments will help inform FinCEN's implementation of all aspects of the beneficial ownership reporting rulemaking.

## Policy / Consultation: 5 May 2021

Beneficial Ownership Information Reporting Requirements

<https://public-inspection.federalregister.gov/2021-06922.pdf>

27 pages

## 2. Standards



26.03.2021 8.5 Client Asset Risk Management and Control

☐ Key ☐ Key – IA Main ☐ IA

### #34 BoE published report on liquidity management in UK open-ended funds

The *Bank of England* BoE published a **report on liquidity management of UK open-ended funds** based on a *joint survey* by the BoE and *Financial Conduct Authority* FCA. Open-ended funds play an *important and increasing role* in the provision of finance, both globally and in the UK. Many of these are funds that offer *daily redemptions* while holding assets that can take longer to sell in an orderly way.

- The *Financial Policy Committee* FPC welcomed the intention of the BoE and the *Financial Conduct Authority* FCA to undertake a *joint review into vulnerabilities associated with this liquidity mismatch* in open-ended funds in *July 2019*.
- The survey provides **several important insights** into funds' liquidity management:
  - *Funds have a wide range of liquidity tools available to them, but predominantly use swing pricing*. Almost all surveyed funds had *liquidity management tools in place* and used them more intensively during the stress period. However, *tool selection* and *trigger points* for their usage, and some pricing adjustment calculations, tended not to be fund-specific, but often set for fund families or at fund manager level.



- Funds intensified and adapted their use of swing pricing during the stress period, although there were large variations in how swing pricing was applied. These variations were explained in part by differences in primary strategies, but not entirely. Funds reported different thresholds for applying swing pricing, and differences in whether and how they chose to change these thresholds in the stress period.
- In addition to the use of liquidity management tools, funds managed their liquidity by holding liquidity buffers in the form of cash and non-cash liquid assets. The two most common non-cash assets held for liquidity purposes were *units* in money market funds MMFs and UK government bonds.
- Some funds adapted their liquidity management approaches and governance measures temporarily or permanently in response to the Covid stress. While fund managers stated that their processes worked well overall under stress, many made changes or launched reviews of their processes.
- An indicative liquidity classification suggests that managers of corporate bond funds may be overestimating the liquidity of their holdings. Managers of some of these funds considered a large proportion of their holdings to be liquid in almost all market conditions, and most funds considered the majority of their holdings to have 'high valuation certainty'. Liquidity conditions for corporate bonds, particularly in market stress times, would indicate otherwise.

## Standards / Final

Liquidity management in UK open-ended funds. [HTML]  
<https://www.bankofengland.co.uk/report/2021/liquidity-management-in-uk-open-ended-funds>



29.03.2021 10.2 Technology Change

☐ Key ☐ Key – IA Main ☐ IA

### #35 Agencies seek wide range of views on financial institutions' use of artificial intelligence

Five federal financial regulatory agencies<sup>2</sup> are gathering insight on financial institutions' use of artificial intelligence AI. The agencies seek information from the public on how financial institutions use AI in their activities, including fraud prevention, personalization of customer services, credit underwriting, and other operations.

- The agencies announced the request for information RFI to gain input from financial institutions, trade associations, consumer groups, and other stakeholders on the growing use of AI by financial institutions.
- More specifically, the RFI seeks comments to better understand:
  - (i) the use of AI, including machine learning, by financial institutions;
  - (ii) appropriate governance, risk management, and controls over AI;

- (iii) challenges in developing, adopting, and managing AI; and
- (iv) whether any clarification would be helpful.

## Standards / Consultation: 1 June 2021

60 days from publication in the Federal Register

Request for Information and Comment on Financial Institutions' Use of Artificial Intelligence, Including Machine Learning  
<https://www.govinfo.gov/content/pkg/FR-2021-03-31/pdf/2021-06607.pdf>  
6 pages



30.03.2021 3.5 Client Price Setting

☐ Key ☐ Key – IA Main ☐ IA

### #36 BoE and FCA encourage market participants in a switch to SONIA in the sterling non-linear derivatives market from 11 May 2021

The Bank of England BoE and the Financial Conduct Authority FCA note that following close engagement with market participants, they support and encourage liquidity providers in the sterling non-linear derivatives market to adopt new quoting conventions for inter-dealer trading based on SONIA instead of LIBOR from 11 May 2021.

- This is to facilitate a further shift in market liquidity toward SONIA, bringing benefits for a wide range of users as they move away from LIBOR.
- A key milestone recommended by the Working Group on Sterling Risk-Free Reference Rates is to cease initiation of new GBP LIBOR-linked non-linear derivatives expiring after 2021 by end-Q2 2021, other than for risk management of existing positions.
- To support market participants in meeting this milestone as soon as possible, the Working Group's Path to ending new use of GBP LIBOR linked derivatives suggested exploring the potential to change standard trading conventions in non-linear derivatives to a SONIA basis during Q2 2021.
- The FCA has therefore engaged with participants in the non-linear derivatives market, including liquidity providers, buy-side firms and interdealer brokers IDBs to determine support for, and the feasibility of, this approach.
- An FCA survey of these market participants identified strong support for a change in the interdealer quoting convention, which would see SONIA rather than LIBOR become the default price from 11 May 2021.
- BoE and FCA support and encourage all participants in the sterling non-linear derivatives market to take the steps necessary to prepare for and implement these changes to market conventions on 11 May 2021 and shift liquidity away from GBP LIBOR to SONIA.
- In the period leading up to 11 May 2021, BoE and FCA will engage with market participants to determine whether market conditions allow the switch to proceed smoothly.

## Standards / Final

<sup>2</sup> Federal Reserve Board FED, the Consumer Financial Protection Bureau CFPB, the Federal Deposit Insurance Corporation FDIC, the National Credit Union Administration NCUA and the Office of the Comptroller of the Currency OCC

Press Release: [HTML]

<https://www.bankofengland.co.uk/news/2021/march/fca-and-boe-encourage-market-participants-in-sonia-switch-in-sterling-non-linear-derivatives-market>

The Working Group on Sterling Risk-Free Reference Rates – Path to ending new use of GBP LIBOR-linked derivatives

<https://www.bankofengland.co.uk/-/media/boe/files/markets/benchmarks/rfr/the-path-for-derivatives-transition-including-exceptions-for-risk-management-purposes.pdf>

2 pages



30.03.2021 6.1 Client Suitability

☐ Key ☐ Key – IA Main ☐ IA

### #37 FCA published finalized guidance on pension transfers advice

The UK Financial Conduct Authority FCA published *Finalized Guidance FG providing non-Handbook guidance to help advisers understand its expectations when advising on pension transfers and conversions*. FCA's work on *defined benefit DB transfer advice* shows many firms are struggling to give consistent, suitable advice. This is largely due to *poor practices* or *weak record keeping*.

- As a result, too much of the *DB transfer advice* observed by the FCA is either *unsuitable* or FCA was *unable to assess its suitability* due to *material information gaps* MIGs.
- This FG supports the *development of good practice and processes* within firms. FCA *expects* firms to *use the guidance to identify any weaknesses* in their existing processes so they can put into place an appropriate framework for managing and delivering suitable advice on *DB to defined contribution DC transfers*.
- The FG aims to *improve the suitability* of *DB transfer advice* and outcomes for consumers. It should give advisers the *confidence to give good advice*, so that they and their professional indemnity insurers can see the benefits of fewer instances of unsuitable advice, making the future pension transfer advice market more sustainable.
- As the FG is based on existing rules, it *comes into effect immediately*. FCA provided notes in the relevant *COBS modules* to help firms locate the FG going forward.

## Standards / Final

Finalized guidance FG 21/3 Advising on pension transfers

<https://www.fca.org.uk/publication/finalised-guidance/fg21-3.pdf>

92 pages

Summary of Feedback Received

<https://www.fca.org.uk/publication/feedback/advising-on-pension-transfers-summary-of-feedback-received.pdf>

22 pages



30.03.2021 4.1 Corporate and Legal Entity Governance

☐ Key ☐ Key – IA Main ☐ IA

### #38 SRB issued new guidance on bail-in for international debt securities

The *Single Resolution Board* SRB published a *document* which describes *elements that banks should consider for the operationalization of the bail-in in respect of international bearer debt securities issued by, and safekept in, the international central securities depositories ICSDs, Euroclear Bank EB and Clearstream Banking Luxembourg CBL*.

- The *document* describes *elements that banks should consider with regard to the write-down and conversion* of *international bearer debt securities* Eurobonds issued by, and safekept in, the ICSDs. These securities represent some *30%* of the *liabilities* (in the form of securities) of banks under SRB remit.
- This *document* was developed based on discussions with the ICSDs. *Banks are expected to reflect the content of this document in their bail-in playbooks*, in accordance with the SRB's *Expectations for Banks document*.
- The *document* explains the *role of ICSDs* in a *bail-in*, the stakeholders involved, processes and steps to follow, data and information requirements, communication timelines and channels used.
- The *document* is based, where possible, on *existing market practices* and *operational rules* supporting the execution of the relevant corporate actions.
- The *document aims* to:
  - provide a better understanding of the procedures the ICSDs would apply in the case of the bail-in of international bearer debt securities for which the ICSDs act as issuer CSDs. Any actions undertaken by the ICSDs in respect of domestic securities, in their role of investor CSDs, will reflect events taking place on the local market;
  - provide information to banks and resolution authorities across jurisdictions about how the bail-in of such instruments would be reflected in the books of the ICSDs; and
  - support banks in preparing their bail-in playbooks, in respect of securities issued and safekept in the ICSDs.

## Standards / Final

Reflecting bail-in in the books of the International Central Securities Depositories (ICSDs) – Description of processes and communication templates

[https://srb.europa.eu/sites/default/files/bail-in\\_in\\_books\\_of\\_icsds\\_enn\\_final\\_web.pdf](https://srb.europa.eu/sites/default/files/bail-in_in_books_of_icsds_enn_final_web.pdf)

40 pages

Bail-in by ICSDs\_Annex II.2\_Annex 2 Detailed list of instruments [Excel]

[https://srb.europa.eu/sites/default/files/2021-03-30\\_bail-in\\_by\\_icsds\\_annex\\_ii.2\\_annex\\_2\\_detailed\\_list\\_of\\_instruments.xlsx](https://srb.europa.eu/sites/default/files/2021-03-30_bail-in_by_icsds_annex_ii.2_annex_2_detailed_list_of_instruments.xlsx)



30.03.2021 5.1 AML / KYC

☐ Key ☐ Key – IA Main ☐ IA

### #39 CNBV and FIU in joint communication presented Guidance on regulated entities transaction reports findings

The Mexican *Comisión Nacional Bancaria y de Valores* CNBV and the *Financial Intelligence Unit* FIU presented the [Guide on recurring findings detected in transaction reports by the Regulated Entities REs](#). This was possible due to the supervisory processes carried out by the CNBV and verification by the FIU.

- [Transaction reports](#) are one of the pillars of the [preventive regime](#) of the REs, since they allow them to [detect transactions](#) possibly related to the perpetration of [Money Laundering / Terrorist Financing ML / FT crimes](#), or those that could represent a risk in this matter.
- In this context, the FIU, as part of the central administrative units of the *Ministry of Finance and Public Credit* SHCP, is responsible for: (i) receiving reports from the REs, (ii) analyzing the information received to detect possible ML / FT conducts, and (iii) disseminating the intelligence products made.
- These responsibilities are performed to send [intelligence reports](#) and, if necessary, [file the corresponding complaints](#) before the *Attorney General's Office* FGR.
- In order for the FIU to carry out its functions effectively, it is necessary that the REs [include in their reports quality, accurate, useful and timely information](#) regarding the elements, indications, conducts or circumstances that could favor, provide aid, assistance or cooperation of any kind for the perpetration of the crime provided in **Article 139 Quáter** of the **Federal Criminal Code** or that could be located in the assumptions of **Article 400 Bis** of the same **Code**.
- In this sense, the [Guide informs the REs of the most recurrent findings in the transaction reports identified by the CNBV and the FIU, in the exercise of their powers, as well as several suggested actions to solve them](#).
- The findings referred to in the [Guide](#) consist of the [detection](#), by said authorities in the exercise of their powers and legal attributions, of [errors or inaccuracies in the information contained in the reports](#), derived from non-automated or semi-automated information uploading processes or due to technological deficiencies that arise during the generation and sending of the reports.
- The issuance of the [Guide](#) will contribute within the [AML / CFT regime](#), in the [identification and mitigation of errors in reports](#), receiving [quality information](#) that allows FIU to fully perform its functions.

## Standards / Final

Press Release:

[https://www.gob.mx/cms/uploads/attachment/file/625954/Comunicado\\_Gui\\_a\\_hallazgos\\_CNBV-UIF\\_210330.docx.pdf](https://www.gob.mx/cms/uploads/attachment/file/625954/Comunicado_Gui_a_hallazgos_CNBV-UIF_210330.docx.pdf)

2 pages



30.03.2021 13.2 Credit Risk Control Framework

☐ Key ☐ Key – IA Main ☐ IA

### #40 OCC announced FFIEC's revised 2021 'A Guide to HMDA Reporting: Getting It Right!'

The *Office of the Comptroller of the Currency* OCC announced the *issuance of the Federal Financial Institutions Examination Council's FFIEC revised "A Guide to HMDA Reporting: Getting It Right!"*, which is designed to help banks comply with the **Home Mortgage Disclosure Act (HMDA)** and **Regulation C**, its implementing regulation (**12 CFR 1003**).

- The [2021 guide](#) reflects a **2020 HMDA rule** to [adjust the thresholds for reporting data about closed-end mortgage loans, effective 1 July 2020](#), and the [thresholds for reporting data about open-end lines of credit, effective 1 January 2022](#).
- The [2021 guide](#) discusses:
  - institutions covered by Regulation C.
  - transactions covered by Regulation C.
  - information that covered institutions are required to collect, record, and report.
  - requirements for reporting and disclosing data.
- This [bulletin rescinds OCC Bulletin 2020-6](#), "Home Mortgage Disclosure Act: FFIEC's Revised 'A Guide to HMDA Reporting: Getting It Right!'"

## Standards / Final

OCC Bulletin 2021-16 Home Mortgage Disclosure Act: FFIEC's 2021 'A Guide to HMDA Reporting: Getting It Right!' [HTML]  
<https://www.occ.gov/news-issuances/bulletins/2021/bulletin-2021-16.html>

A Guide To HMDA Reporting: Getting It Right!, 2021 Edition  
<https://www.ffiec.gov/hmda/pdf/2021Guide.pdf>

368 pages



30.03.2021 12.2 Financial Reporting

☐ Key ☐ Key – IA Main ☐ IA

### #41 FASB Provided Alternative to the Goodwill Triggering Event Assessment for Certain Private Companies and Organizations

The *Financial Accounting Standards Board* FASB issued an *Accounting Standards Update ASU on Intangibles – Goodwill and Other (Topic 350)* that provides an accounting alternative expected to reduce the complexity for private companies and not-for-profit organizations when performing the [goodwill triggering event evaluation](#).

- Under current GAAP, [goodwill must be tested for impairment when a triggering event occurs](#) that indicates that it is more likely than not that the [fair value](#) of the reporting unit [is below its carrying value](#). Companies and organizations are required to monitor for and evaluate goodwill triggering events when they occur throughout the year.
- Some stakeholders raised questions about the [value of evaluating a triggering event](#) at an interim date when certain private companies and not-for-profit organizations only issue GAAP-compliant financial statements on an annual basis.

- They noted the *cost and complexity* of preparing interim balance sheets and projecting cash flows that, according to those stakeholders, may not be relevant at the annual reporting date when financial statements are issued.
- To address this, the *ASU provides an accounting alternative that allows private companies and not-for-profit organizations to perform a goodwill triggering event assessment*, and any resulting *test for goodwill impairment*, as of the end of the reporting period, whether the reporting period is an interim or annual period.
- It *eliminates the requirement for companies and organizations that elect this alternative to perform this assessment during the reporting period, limiting it to the reporting date only*.
- The *scope* of the proposed alternative is limited to goodwill that is tested for impairment in accordance with *Subtopic 350-20, Intangibles—Goodwill and Other—Goodwill*. The amendments in the ASU are *effective on a prospective basis for fiscal years beginning after 15 December 2019*.
- Early adoption is permitted for both interim and annual financial statements that have not yet been issued or made available for issuance as of *30 March 2021*. An entity should not retroactively adopt the amendments in this Update for interim financial statements already issued in the year of adoption.
- The amendments in the ASU also include an *unconditional one-time option for entities to adopt the alternative prospectively after its effective date*. No additional disclosures would be required.

## Standards / Final

Accounting Standards Update 2021-03—Intangibles—Goodwill and Other (Topic 350): Accounting Alternative for Evaluating Triggering Events  
[https://www.fasb.org/jsp/FASB/Document\\_C/DocumentPage?cid=1176176428664&acceptedDisclaimer=true](https://www.fasb.org/jsp/FASB/Document_C/DocumentPage?cid=1176176428664&acceptedDisclaimer=true)  
42 pages



**30.03.2021** 12.2 Financial Reporting

☐ Key ☐ Key – IA Main ☐ IA

### #42 IASB seeks comments to help shape its five-year plan

The *International Accounting Standards Board* IASB published a *consultation document* to seek views on what the *IASB priorities should be over the next five years*. This is the *third time* the IASB has consulted the public via an *agenda consultation* to help create its *five-year plan*.

- IASB is asking for *views on the strategic direction and balance of its activities*—for example, how much time it should spend on developing new *IFRS Standards* compared with that spent on its other activities, such as supporting consistent application of the *Standards*.
- IASB is also *seeking views on which financial reporting issues it should prioritize* and on the criteria for adding projects to its work plan.
- The feedback received will help IASB determine its *activities and work plan for 2022 to 2026*.

- Some of IASB's capacity during the period from *2022 to 2026* will be devoted to *completing projects already underway* and to *post-implementation reviews* that assess whether recently issued *IFRS Standards* are working as intended. However, IASB also expects to have capacity to take on some new projects.
- In parallel with IASB's *Agenda Consultation*, the Trustees of the IFRS Foundation are *considering the establishment of a sustainability standards board SSB* to operate alongside the IASB within the Foundation's governance structure.

## Standards / Consultation: 27 September 2021

Request for Information – Third Agenda Consultation

<https://cdn.ifrs.org/-/media/project/third-agenda-consultation/rfi-third-agenda-consultation-2021.pdf?la=en>

56 pages

Request for Information and comment letters: Third Agenda Consultation [HTML]

<https://www.ifrs.org/projects/work-plan/2020-agenda-consultation/comment-letters-projects/request-for-information-and-comment-letters/>



**31.03.2021** 13.2 Credit Risk Control Framework

☐ Key ☐ Key – IA Main ☐ IA

### #43 ESAs warn of an expected deterioration of asset quality

The three *European Supervisory Authorities* ESAs<sup>3</sup> issued their *first joint risk assessment report of 2021*. The *report* highlights how the *COVID-19 pandemic* continues to *weigh heavily on short-term recovery prospects*. It also highlights a number of *vulnerabilities* in the financial markets and *warns of possible further market corrections*.

- *Macroeconomic conditions improved* in the *second half of 2020*, supported by ongoing fiscal and monetary policy efforts, but the resurgence of the *COVID-19 pandemic* since the last quarter of 2020 has led to increasing economic uncertainty.
- The start of the *rollout of vaccinations* provides a crucial anchor for medium-term expectations, but insufficient production capacities, delays in deliveries as well as risks related to mutations of the virus are weighing heavily on short-term recovery prospects.
- *Macroeconomic uncertainty* was generally *not reflected in asset valuations* and market volatility which have recovered to pre-crisis levels, highlighting a *continued risk of decoupling of valuations from economic fundamentals*.
- In light of these risks and uncertainties, the ESAs advise *national competent authorities* NCAs, financial institutions and market participants to *take the following policy actions*:
  - **Prepare for an expected deterioration of asset quality:** banks should *adjust provisioning models* to adequately address the impact of the economic shock of the pandemic and to ensure a *timely recognition of adequate levels* of provisions.

<sup>3</sup> EBA, EIOPA and ESMA



They should engage to *restructure over indebted but viable exposure efficiently*. To supervisors, banks' provisioning policies should continue to be a point of particular attention.

- **Continue to develop further actions to accommodate a "low-for-long" interest rate environment and its risks:** while low interest rates are important to support economic activity, they *negatively impact banks' interest income and remain the main risk for the life insurance and pension fund sector*. For insurers, it is important that the regulatory framework also reflects the steep fall in interest rates experienced in recent years and the existence of negative interest rates. *Financial institutions* should also continue to *monitor, and be prepared for, changes in interest rates*, especially in light of the recent *upward shifts* of long-term interest rates and the consequent concerns about re-emerging *inflationary pressures*.
- **Ensure sound lending practices and adequate pricing of risks:** banks should continue to make *thorough risk assessments* to ensure that lending remains viable in the future including after public support measures such as loan moratoria and public guarantee schemes will expire, and this should be closely monitored by supervisors.
- **Follow conservative policies on dividends and share buy-backs:** any distributions should not exceed thresholds of prudence; and
- **Investment funds should further enhance their preparedness in the face of potential increases in redemptions and valuation shocks:** to this end the alignment of fund investment strategy, liquidity profile and redemption policy should be supervised, as well as funds' liquidity risk assessment and valuation processes in a context of valuation uncertainty.

## Standards / Final

Joint Committee Report on Risks and Vulnerabilities in the EU Financial System  
[https://www.eba.europa.eu/sites/default/documents/files/document\\_library/Publications/Reports/2021/JC%20Report%20on%20risks%20and%20vulnerabilities/972150/JC%20Spring%202021%20Report%20on%20Risks%20and%20Vulnerabilities.pdf](https://www.eba.europa.eu/sites/default/documents/files/document_library/Publications/Reports/2021/JC%20Report%20on%20risks%20and%20vulnerabilities/972150/JC%20Spring%202021%20Report%20on%20Risks%20and%20Vulnerabilities.pdf)  
13 pages



**31.03.2021** 4.1 Corporate and Legal Entity Governance

☐ Key ☐ Key – IA Main ☐ IA

**#44 FED published FAQs comprising existing legal interpretations related to a number of the FED's longstanding regulations**

The *Federal Reserve Board* FED published *frequently asked questions FAQs* comprising *existing legal interpretations related to a number of the Board's longstanding regulations*. The FAQs are intended to *increase transparency* and enhance *accessibility* to FED and FED staff legal interpretations.

- The FAQs include *legal interpretations* that have been formulated over time in response to specific requests related to each regulation.

- Each set includes *significant existing interpretations* of the regulation, including those found in FED orders, letters to specific requestors, and other sources, as well as those not previously available in written form.
- Interpretations relate to the following **Regulations**:

Regulation	
Regulation H	Membership of State Banking Institutions in the Federal Reserve System
Regulation K	International Banking Operations
Regulation L	Management Official Interlocks
Regulation O	Loans to Executive Officers, Directors, and Principal Shareholders of Member Banks
Regulation W	Transactions Between Member Banks and Their Affiliates
Regulation Y	Bank Holding Companies and Change in Bank Control

## Standards / Final

Legal Interpretations FAQs of the Board's Regulations [HTML]  
<https://www.federalreserve.gov/supervisionreg/legalinterpretations/legal-interpretations-of-the-boards-regulations.htm>



**31.03.2021** 7.3 Intentional Disruption of Service

☐ Key ☐ Key – IA Main ☐ IA

**#45 NIST Releases an Example Implementation Tool for NISTIR 8212: An Information Security Continuous Monitoring Program Assessment**

The US *National Institute of Standards and Technology* NIST published a *new document* that *describes an example methodology for assessing an organization's Information Security Continuous Monitoring ISCM program*.


- NIST developed a *tool* directly from *NIST guidance* which is *applicable to any organization, public or private*. The tool can be used as documented or as the starting point for a different methodology.
- Included with the methodology is a *reference implementation* that is directly usable for conducting an ISCM assessment.
- The *ISCMaX tool* available under Supplemental Material is a *macro-enabled Microsoft Excel application* that runs on Windows-based systems only. ISCMaX is not intended to be a production-level product.
- ISCMaX is suited for *self-assessment by organizations of any size or complexity*. Organizations choose the desired breadth and depth of the assessment.
  - *Breadth options* are provided for organizations ranging from those that already have functioning ISCM programs to those that are just starting.
  - *Depth options* allow organizations to focus on the more critical aspects of the program, followed by details and nuances.

## Standards / Final

NISTIR 8212 – ISCMaX: An Information Security Continuous Monitoring Program Assessment  
<https://nvlpubs.nist.gov/nistpubs/ir/2021/NIST.IR.8212.pdf>  
80 pages

ISCMaX: Recommended Judgments (xls) [ZIP-file]  
<https://csrc.nist.gov/CSRC/media/Publications/nistir/8212/final/documents/ISCMaX-Recommended-Judgements.zip>

ISCMaX: Alternate Judgments (xls) [ZIP-file]  
<https://csrc.nist.gov/CSRC/media/Publications/nistir/8212/final/documents/ISCMaX-Alternate-Judgements.zip>


**31.03.2021** 11.3 Business Continuity and Crisis Management

☒ Key ☐ Key – IA Main ☒ IA Audit Standards and Practice Notes

**#46 BCBS issues principles for operational resilience and risk**

The Basel Committee on Banking Supervision BCBS, hosted by the Bank for International Settlements BIS issued **Principles for operational resilience**, which aim to make banks better able to withstand, adapt to and recover from severe adverse events. In addition, BCBS also issued *revisions to its Principles for the sound management of operational risk (PSMOR)* reflecting the *natural relationship between operational resilience and operational risk*. This follows a *consultation* on both documents in August 2020.


- Given the critical role played by banks in the global financial system, *increasing banks' resilience to absorb shocks from operational risks*, such as those arising from *pandemics*, *cyber incidents*, *technology failures* or *natural disasters*, will provide *additional safeguards* to the financial system as a whole.
- In recent years, the *growth of technology-related threats* has increased the importance of banks' *operational resilience*. The *COVID-19 pandemic* has made the need to address these threats even more pressing.
- With respect to **operational risk**, BCBS made a *limited number of technical revisions* to:
  - align the PSMOR with the recently *finalized Basel III operational risk framework*;
  - update the guidance where needed in the areas of *change management* and *ICT*; and
  - improve the overall clarity of the principles document.
- The **principles for operational resilience** build upon the PSMOR and are *largely derived and adapted from existing guidance* on outsourcing-, business continuity- and risk management-related guidance issued by BCBS or national supervisors over a number of years.
- By building upon *existing guidance* and *current practices*, BCBS is seeking to *develop a coherent framework and avoid duplication*. The **operational resilience principles** focus on:

- governance;
- operational risk management;
- business continuity planning and testing;
- mapping interconnections and interdependencies;
- third-party dependency management;
- incident management; and
- resilient cyber security and ICT.

## Standards / Final

Principles for operational resilience  
<https://www.bis.org/bcbs/publ/d516.pdf>  
12 pages

Revisions to the principles for the sound management of operational risk  
<https://www.bis.org/bcbs/publ/d515.pdf>  
23 pages


**31.03.2021** 12.2 Financial Reporting

☐ Key ☐ Key – IA Main ☐ IA

**#47 IASB extends support for lessees accounting for covid-19-related rent concessions**


The International Accounting Standards Board IASB **extended by one year the application period of the practical expedient in IFRS 16 Leases to help lessees accounting for COVID-19-related rent concessions**.

- In response to calls from stakeholders and because the *COVID-19 pandemic* is still at its height, IASB has *extended the relief by one year to cover rent concessions* that reduce only lease payments due on or before *30 June 2022*.
- The *original amendment* was issued in *May 2020* to make it easier for lessees to account for *COVID-19-related rent concessions*, such as *rent holidays* and *temporary rent reductions*, while continuing to provide useful information about their leases to investors.
- The *amendment* is *effective for annual reporting periods beginning on or after 1 April 2021*.

## Standards / Final

Press Release: [HTML]  
<https://www.ifrs.org/news-and-events/2021/03/iasb-extends-support-covid-19-related-rent-concessions/>

### 3. IIA Standards


**25.03.2021** General, Internal Auditing

☐ Key ☐ Key – IA Main ☒ IA Use of Technology in IA

**#48 IIA published report on Internal Audit's Digital Transformation Imperative**

The Institute of Internal Auditors IIA's Internal Audit Foundation, in collaboration with AuditBoard, published a *report* on **Internal Audit's Digital Transformation Imperative: Advances amid Crisis**. The institutions conducted in *November 2020*, a *survey* to

*understand how internal audit leverages technology* to respond to the year's *challenging and fast-changing conditions*, in addition to examining how technology was used prior to the pandemic.

- The *year 2020* will long be remembered as a year of disruption. In the midst of a *global pandemic*, *social unrest*, *political upheavals*, and *economic crises*, *internal auditors were challenged to provide assurance and advisory services* to help their organizations survive.



- However, that is not all; *internal audit's infrastructure and processes also were disrupted* — internal auditors had to shift to remote work, deal with a rapidly broadening risk environment, and grapple with resourcing fluctuations.
- The **survey** was designed to *gather data* and *provide answers* to the following questions:
  - How has technology helped internal audit functions adapt to rapidly changing conditions in 2020?
  - Have internal audit functions accelerated, decelerated, or otherwise changed their current use or intended adoption of new technology in response to the conditions of 2020?
  - What is the most effective type of technology for helping internal audit functions succeed in their response to changing conditions?
- A successful response to such disruption requires *effective and efficient collaboration, communication, and productivity* — all of which can be enabled or enhanced through innovation and the adoption of technology.
- The **goal** of this report is:
  - To illustrate how audit departments' use of technology has changed throughout this disruption,
  - To explore how that technology has helped audit teams adapt, and
  - To determine which technologies have been the most effective in allowing audit teams to be successful.

## Standards / Final

Internal Audit's Digital Transformation Imperative : Advances amid Crisis – Analyzing the Impact of 2020 on Internal Audit Functions' implementation of Technology

<https://na.theiia.org/iiarf/Public%20Documents/Internal-Audits-Digital-Transformation-Imperative.pdf?webSyncID=2e5c0991-076e-4b1f-95ac-a57e07e5d93c&sessionGUID=0ef6493e-c1f3-4d52-9e74-045c7a91685a>  
16 pages



29.03.2021 General, Internal Auditing

☐ Key ☐ Key – IA Main ☒ IA ☐ IA General

### #49 IIA to Explore Improvements To International Professional Practices Framework

The *Institute of Internal Auditors* IIA announced that it will be *seeking input and perspectives on the current International Professional Practice Framework IPPF, its accompanying International Standards for the Professional Practice of Internal Auditing (Standards), and authoritative guidance*. The IIA will announce details at a later date.

- Internal audit's mission to "*enhance and protect organizational value*" has never meant more amid a world that grows increasingly complex. *Internal auditors help their organizations confront the challenges by providing timely and objective "assurance, advice, and insight"* built upon a strong foundation – The IIA's **IPPF**.

- The IIA has the *responsibility of ensuring the IPPF remains reliable and relevant*, and delivered in a way that provides *structure and clear guidance*. As part of this *ongoing* process, and to continue to meet the demands of *internal audit professionals* and the *expectations of their stakeholders*, The IIA will be seeking input and perspectives on the current **IPPF**, **Standards** and **authoritative guidance**.
- The *International Internal Audit Standards Board*, which develops, issues, maintains, and promotes the **Standards**, is beginning to *explore whether opportunities exist to improve the IPPF and Standards* to ensure they continue to effectively support internal audit professionals in fulfilling *their* mission.
- "*The IPPF should not be considered a static document, something that might be scanned but then ignored. It and the Standards are valuable resources that drive our profession forward as an indispensable component of effective governance,*" said IIA President and CEO **Richard F. Chambers**, CIA, QIAL, CGAP, CCSA, CRMA.
- "*Are there opportunities for improvement to ensure internal auditors are relevant today and tomorrow? We want to answer that question and more.*"

## Standards / Final

Press Release: [HTML]

<https://global.theiia.org/news/Pages/IIA-to-Explore-Improvements-To-International-Professional-Practices-Framework.aspx>



29.03.2021 General, Internal Auditing

☐ Key ☐ Key – IA Main ☒ IA ☐ Audit Standards and Practice Notes

### #50 IIA and EY published a report on the "Risky six"

The *Institute of Internal Auditors* IIA and *Ernst & Young LLP* EY release a *joint report*, "**The Risky Six: Key questions to expose gaps in board understanding of organizational cyber resiliency**." Practitioners and researchers from The IIA and EY conducted *extensive analysis* to determine the *root cause of how and why boards get a skewed picture of their organizations' ability to protect themselves from cyber-related risks*.

- The team, which collectively has more than 100 years of experience managing *cybersecurity risks* within organizations in all industries, identified *six key questions that if unanswered likely mean a disconnect exists*.
- **Key data** pointing to *widespread disconnects* from boards – rooted in the team's deep experience in the field, as well as cutting-edge research from The IIA and EY – include the following:
  - **60%** of organizations do not have a head of cybersecurity who sits on the board or at executive management level.
  - **59%** of organizations say that the relationship between cybersecurity and the lines of business is at best neutral, to mistrustful or nonexistent.
  - **20%** of boards are extremely confident that the cybersecurity risks and mitigation measures presented to them can protect the organization from major cyber-attacks.

- 36% of organizations say cybersecurity is involved right from the planning stage of a new business initiative.
- Organizations working toward a *collective “yes” for the six questions* provide a narrative that is well received by stakeholders inside and outside the organization.
- It highlights the *due care and diligence* underway to battle *cyber risk*. However, the *report also exposes how easily boards can develop false confidence* if any of the six questions can't be answered in the affirmative.
- See **Appendix** for an overview of the “*Risky six*”.



## Standards / Final

The risky six – Key questions to expose gaps in board understanding of organizational cyber resiliency

<https://global.theiia.org/knowledge/Public%20Documents/EY-The-Risky-Six-Board-Disconnections.pdf>

12 pages

## 4. Information



25.03.2021 General, Supervisory Framework

☐ Key ☐ Key – IA Main ☐ IA

### #51 FINMA published its 2020 Annual Report

The Swiss Financial Market Supervisory Authority FINMA published its **2020 Annual Report**. FINMA notes that the *financial institutions remained robust* during this challenging year dominated by the *coronavirus pandemic*. Besides the regulatory actions induced by the pandemic, FINMA performed its supervisory activity in full.

- In addition to the retrospective report, it also encompasses the *annual financial statements*. Further, FINMA is providing data on *enforcement cases* in a database as well as statistics in an Excel document on its website. FINMA has *postponed the planned annual media conference* until a later point in time due to the announced change in leadership.
- The *year 2020* and FINMA's activities were dominated by the *coronavirus pandemic*. The *crisis* is the first major test of the regulatory changes introduced since the 2008 financial crisis.
- The *higher capital buffers* that have been built up in recent years have *proved to be extremely effective* in maintaining stability and trust.
- The *regulatory toolkit* also benefited from its inbuilt flexibility. FINMA was thus able to offer time-limited relief in specific areas. Finally, the coronavirus crisis also *subjected the business continuity plans* of the financial industry and FINMA as a supervisory authority to a *stress test*. It was apparent that both were well prepared for the crisis.
- Besides the challenges surrounding the pandemic, FINMA *rigorously pursued its supervisory activity*. Despite its employees working from home and the lockdown, for example, it carried out around *one hundred on-site supervisory reviews at banks*.
- That is 6% more than in the previous year. In addition, FINMA *focused on preparing the institutional and regulatory framework for the implementation of FinSA and FinIA*: it authorized five supervisory organizations, three registration bodies and two reviewing bodies for prospectuses as well as pre-registering some *2,500 portfolio managers*.

- FINMA is thus *ready to process the authorization requests* that it expects to receive from portfolio managers and trustees in the coming months swiftly. FINMA also *focused on carrying out checks among supplementary health insurers* due to service settlements that were lacking in transparency and were in some cases unjustified.
- In *2020*, FINMA conducted *628 investigations* (2019: 816) and *33 enforcement proceedings* (2019: 30). These included proceedings that were *complex and international in scope* in relation to *combating money laundering*.
- FINMA issued and published *two rulings* against Julius Baer and Banca Credinvest relating to business relationships associated with *Petróleos de Venezuela S.A. (PDVSA)*. FINMA thus conducted proceedings against institutions and responsible managers in connection with *corruption cases* such as *1MDB*, *Petrobras* and *FIFA* in more than *twenty cases* between *2016 and 2019*.

## Information

Press Release:

<https://www.finma.ch/en/~media/finma/dokumente/dokumentencenter/8news/medienmitteilungen/2021/03/20200324-mm-jb2020.pdf?la=en>

2 pages

Annual Report 2020

<https://www.finma.ch/en/~media/finma/dokumente/dokumentencenter/myfinma/finma-publikationen/geschaeftsbericht/20200325-finma-jahresbericht-2020.pdf?la=en>

104 pages

Jahresrechnung 2020

<https://www.finma.ch/de/~media/finma/dokumente/dokumentencenter/myfinma/finma-publikationen/geschaeftsbericht/20200325-finma-jahresrechnung-2020.pdf?la=de>

68 pages



26.03.2021 8.4 Product and Service Shelf

☐ Key ☐ Key – IA Main ☐ IA

#### #52 FCA published Feedback Statement on Open Finance

The UK Financial Conduct Authority FCA published a *Feedback Statement* on **Open Finance** that summarizes feedback received to its *Call for Input* in **December 2019**. This explored the *opportunities and risks* from open finance, as well as how to ensure it develops in consumers' interests and the *role* FCA could play.

- In this *feedback statement* the FCA sets out the responses it received to the following **areas**:
  - maximizing the potential of open banking,
  - *key themes and issues* for open finance – including its risks and benefits, feasibility and cost, the necessary regulatory framework, common standards, and infrastructure,
  - FCA's *draft principles* for open finance, and
  - FCA's *role and next steps*.
- In its **2019 / 2020 Business Plan** FCA committed to leading the public debate on open finance and to setting up an *advisory group* to help drive forward its future strategy.
- This *group* is made up of industry experts, consumer and business representatives, academics, and government departments. Its advice informed FCA's *Call for Input*.
- Since the FCA published its *Call for Input*, the Government and industry have made *progress on several open finance and open data-related initiatives*. FCA summarized this progress in the feedback statement.
- FCA will support the Government as it considers the timing, scope and nature of legislation on open finance. FCA stated that it will do this through:
  - sharing its lessons from the implementation and supervision of open banking and the development of Pensions Dashboards,
  - working with the Government and industry stakeholders to identify what industry roadmaps are needed to support legislation,
  - helping convene industry-led efforts to develop common standards to support open finance,
  - assessing the regulatory framework that would be needed to support open finance, and
  - supporting discussions on the future operating model for the *Open Banking Implementation Entity* OBIE.

### Information

FS 21/7 Feedback Statement – Open Finance

<https://www.fca.org.uk/publication/feedback/fs21-7.pdf>

36 pages



26.03.2021 13.2 Credit Risk Control Framework

☐ Key ☐ Key – IA Main ☐ IA

#### #53 ESAs publish Joint Opinion on jurisdictional scope under the Securitization Regulation

The European Supervisory Authorities ESAs<sup>4</sup> published a *Joint Opinion on the jurisdictional scope of the obligations of the non-EU parties to securitizations under the Securitization Regulation SECR*. The *purpose* of the *Joint Opinion* is to *facilitate the understanding of certain SECR provisions* in cases where third-country entities become parties to a securitization.

- The *Joint Opinion* aims to *clarify the potential obligations of those third-country parties*, as well as *related compliance aspects* of a transaction under SECR, and is intended to help *improve the functioning of EU securitization markets*.
- The ESAs, in their *Joint Opinion*, set out their *common view* on the *practical difficulties* faced by market participants in connection with the *jurisdictional scope of application* of various provisions in the SECR in the following **four scenarios**:
  - (i) securitizations where some, but not all, of their sell-side parties i.e., originator, original lender, sponsor and special purpose entity issuer etc., are located in a third country;
  - (ii) securitizations where all sell-side parties are located in a third country and EU investors invest in them;
  - (iii) investments in securitizations by subsidiaries of EU regulated groups, where those subsidiaries are located in a third country; and
  - (iv) securitizations where one of the parties is a third country investment fund manager
- The *Joint Opinion recommends* that these *difficulties should be addressed*, where possible, through *interpretative guidance* from the *EU Commission* EC.
- The ESAs also invite the EC to undertake a *comprehensive review* of the *SECR jurisdictional scope framework* as part of the upcoming overall reform of this **Regulation**, as a means of thoroughly *addressing market participants' concerns* regarding proper market functioning.

### Information

ESAs' Opinion to the European Commission on the Jurisdictional Scope of Application of the Securitization Regulation  
[https://www.eba.europa.eu/sites/default/documents/files/document\\_library/Publications/Opinions/2021/964573/JC%202021%2016%20-%20ESAs%20Opinion%20on%20Jurisdictional%20Scope%20of%20Application%20of%20the%20Securitisation%20Regulation%20%28003%29.pdf](https://www.eba.europa.eu/sites/default/documents/files/document_library/Publications/Opinions/2021/964573/JC%202021%2016%20-%20ESAs%20Opinion%20on%20Jurisdictional%20Scope%20of%20Application%20of%20the%20Securitisation%20Regulation%20%28003%29.pdf)

17 pages

<sup>4</sup> European Banking Authority EBA, European Insurance and Occupational Pensions Authority EIOPA, and European Securities and Markets Authority ESMA

 **29.03.2021** 8.4 Product and Service Shelf

☐ Key ☐ Key – IA Main ☐ IA

#### #54 IA informed about the commencement of the Group-wide Supervision Framework and regulatory regime of insurance-linked securities business

The Hong Kong Insurance Authority IA announced that the *legislative amendments* on the *group-wide supervision GWS framework and regulatory regime of insurance-linked securities ILS business became effective on 29 March 2021*.

- The IA has *engaged closely* with key industry stakeholders in developing the *Guideline on Group Supervision* which spells out *principles and standards* for designated insurance holding companies on a wide range of areas including *enterprise risk management, corporate governance, capital requirements, and public disclosure*.
- The launch of this *guideline* will stand us in a good stead to effect formal designation of the *three related insurance groups* by *mid-2021*.
- On regulation of *ILS business*, the IA is *ironing out implementation details* by drawing reference from overseas experience while considering local circumstances.
- The *Pilot ILS Grant Scheme* recently announced by the *Financial Secretary* will also provide added attraction to potential sponsors, and the first issuance is expected to take place within this year.
- Apart from the *GWS framework* and *regulatory regime of ILS business*, the *legislative amendments* seek to *expand the scope of insurable risks for captives*, thus transforming Hong Kong into a preferred domicile for captives formed by state-owned enterprises from the Mainland, multinational conglomerates and local corporates.
- Coupled with the *tax concessions* for all general reinsurance business of direct insurers, selected general insurance business of direct insurers and selected insurance brokerage business, these *initiatives will inject impetus into the development of marine and specialty risks insurance* in Hong Kong.

## Information

Press Release: [HTML]

[https://www.ia.org.hk/en/infocenter/press\\_releases/20210329.html](https://www.ia.org.hk/en/infocenter/press_releases/20210329.html)



**29.03.2021** 3.2 Market Manipulation

☐ Key ☐ Key – IA Main ☐ IA

#### #55 FSC Announced Financial Authorities to Strengthen Monitoring and Detection of Fraudulent Activities

The Korean Financial Services Commission FSC informed that it held a *meeting* on the *prevention of fraudulent and illegitimate activities in financial services with the relevant institutions* and discussed ways to *strengthen prevention, detection and punishment of fraudulent activities* and to *improve consumer remedies*.

- The *authorities* decided to set a *special response period* from *29 March 2021 to 30 June 2021* to *strengthen monitoring and detection of fraudulent activities*. The government will also continue to work on improving regulations through legislative efforts.
- The *authorities* decided on the following *key tasks*:
  - (i) *Investment Advising via Social Media* – Carry out a joint monitoring and inspection on stock investment advising activities that utilize social networking services and operate special investigation teams focusing on particular stock items.
  - (ii) *Fundraising Conducted by Unregistered Entities* – Expand the scope of punishable activities to include the act of providing disinformation on illegitimate financial products and misrepresenting them as legitimate and of promising a profit on illegitimate products.
  - (iii) *Vishing* – Strengthen prevention and detection of vishing scams through a closely coordinated information sharing system between the relevant institutions and send out public alerts about new vishing scams.
  - (iv) *Illegal Predatory Lending* – Provide support to the victims of illegal predatory lending by helping to recover interest payments in excess of the maximum interest rate that is permitted by the law.

## Information

Press Release:

<https://www.fsc.go.kr/comm/getFile?srvcld=BBSTY1&upperNo=75627&fileTy=ATTACH&fileNo=1>

1 page



**29.03.2021** 8.4 Product and Service Shelf

☐ Key ☐ Key – IA Main ☐ IA

#### #56 EIOPA brings about important changes with regard to published national general good rules

The European Insurance and Occupational Pensions Authority EIOPA completed its *analysis of all published general good rules on registration and professional and organizational requirements that could potentially be non-compliant with the Insurance Distribution Directive IDD*.

- Overall, the *outcome* of this exercise has been *successful in terms of enhancing transparency for consumers and helping to reduce barriers* to the taking-up and pursuit of the activity of insurance distribution in the internal market.
- Many *national competent authorities NCAs implemented actions* to ensure compliance with the IDD. These NCAs have *adjusted their webpages and documents* with information on general good rules, to:
  - remove registration and organizational requirements which are under the exclusive competence of the home Member State (e.g. provisions requiring incoming insurance intermediaries to hold a specific diploma before engaging in insurance distribution in the host Member State);
  - clarify that registration and organizational requirements are only imposed on domestically registered insurance intermediaries; and



- indicate specific general good provisions rather than quote compendia of national legislation.
- EIOPA published an **overview table** with information on the adjustments made to **general good rules** in different Member States.
- EIOPA will continue to assess further cases and will report back on these in the future, where appropriate.
- **General good rules** are national rules of the Member States which *introduce additional requirements reflecting specificities of local markets* and apply to incoming firms seeking to carry out cross-border business.
- This exercise is a **follow-up** to EIOPA's **report** that analyzed national general good rules in the context of the proper functioning of the IDD and the internal market in accordance with **Article 11(3)** of the **IDD**.
- The **report concluded** that *some NCAs have published general good rules* on registration and organizational requirements, which allow those NCAs as host Member States to impose *additional requirements on passporting insurance distributors* whereas, under the IDD, *those rules are under the competence of the competent authority of the home Member State only*.

## Information

Press Release: [HTML]

<https://www.eiopa.europa.eu/content/eiopa-brings-about-important-changes-regard-published-national-general-good-rules-0>

General Good Rules Table

[https://www.eiopa.europa.eu/sites/default/files/publications/other\\_documents/general\\_good\\_rules\\_-\\_overview\\_table\\_of\\_completed\\_cases.pdf](https://www.eiopa.europa.eu/sites/default/files/publications/other_documents/general_good_rules_-_overview_table_of_completed_cases.pdf)

4 pages



**30.03.2021** 12.2 Financial Reporting

☐ Key ☐ Key – IA Main ☐ IA

### #57 ESMA publishes response to IASB Request for Information on the Post Implementation Review of IFRS 10, 11 and 12

The **European Securities and Markets Authority ESMA** published its **response to the International Accounting Standards Board IASB Request for Information on the Post Implementation Review of IFRS 10, 11 and 12**, including a **report providing an overview of the implementation of the three standards by European issuers**.

- The **report** draws on the *experience* of European enforcers since 2014 and is based on a *review of a sample of 65 issuers* relating to the financial years **2017, 2018 and 2019**.
- The **Report** considers how the *requirements have been implemented* and where IFRS 10, IFRS 11 and IFRS 12 should, in ESMA's view, be *clarified to address divergence in practice or lack of comparability*.
- The **Report** also provides **recommendations** on how issuers could improve the application of the standards and the transparency of their disclosures.
- ESMA **expects issuers**, their **auditors** and **audit committees** to consider the findings of this **Report** when preparing and auditing financial statements.

- ESMA will *share its findings* with the IASB as a contribution to the ongoing **Post Implementation Review**.

## Information

Response Letter: IASB's Request for Information on the Post Implementation Review of IFRS 10, IFRS 11 and IFRS 12

[https://www.esma.europa.eu/sites/default/files/library/esma32-67-771\\_letter\\_to\\_the\\_iasb\\_on\\_rfi\\_ifrs10-11-12.pdf](https://www.esma.europa.eu/sites/default/files/library/esma32-67-771_letter_to_the_iasb_on_rfi_ifrs10-11-12.pdf)

5 pages

Report On the application of IFRS 10, IFRS 11 and IFRS 12

[https://www.esma.europa.eu/sites/default/files/library/esma32-67-716\\_report\\_on\\_ifrs\\_10-11-12.pdf](https://www.esma.europa.eu/sites/default/files/library/esma32-67-716_report_on_ifrs_10-11-12.pdf)

42 pages



**30.03.2021** 4.1 Corporate and Legal Entity Governance

☐ Key ☐ Key – IA Main ☐ IA

### #58 IOSCO Technical Expert Group to undertake an assessment of the technical recommendations to be developed as part of the IFRS Foundation's sustainability project

The **International Organization of Securities Commissions IOSCO** welcomed **IFRS Foundation formation of a working group to undertake technical preparation for a potential international Sustainability Standards Board SSB under the governance of the IFRS Foundation, and the invitation to join this group as an observer**.

- IOSCO announced the *establishment* of a new **Technical Expert Group TEG** under its **Sustainable Finance Task Force STF**. The TEG will work closely with the IFRS Foundation's working group and will be tasked with *reviewing and assessing* its **technical recommendations** focused on *enterprise value creation*.
- As part of this, the TEG will assess refinements to the prototype and its content, including *industry-specific metrics*. The TEG will consider whether the refined prototype could be a sound basis for the development of an *international reporting standard* under the SSB, with a focus on *enterprise value*, that will:
  - meet the capital market's core information needs and serve as a baseline for consistent and comparable approaches to mandatory sustainability-related disclosures across jurisdictions,
  - be compatible with existing accounting reporting standards and promote good governance of sustainability-related disclosures among preparers, and
  - form the basis for the *development of an audit and assurance framework*.
- This preparatory work will inform IOSCO's views on its *potential endorsement* of the **SSB as the global standard-setter for sustainability-related corporate reporting**. Subject to the outcome of its assessment, IOSCO views the proposed SSB and its future standards as a *promising solution* for achieving consistent, comparable, and reliable cross-border sustainability-related reporting requirements and would *encourage IOSCO members and relevant authorities to consider the standards when setting sustainability-related disclosure requirements*.

- In the course of its work, IOSCO will seek opportunities to gather the views of global stakeholders and market participants on the prototype and its content.
- The TEG will be co-led by the *Monetary Authority of Singapore* MAS and the *US Securities and Exchange Commission* SEC and will *comprise sustainability reporting technical specialists* from within the STF and the leadership of IOSCO's *policy committee on issuer accounting, auditing and disclosures* (Committee 1).
- Considering the *urgent need* to improve the consistency, comparability, and reliability of sustainability-related disclosures across jurisdictions, IOSCO *expects* that the TEG will *complete its initial assessment of the technical recommendations and refinements to the prototype before COP 26 in November 2021*.

## Information

Press Release:

<https://www.iosco.org/news/pdf/IOSCONEWS599.pdf>

4 pages



**31.03.2021** 8.4 Product and Service Shelf

☐ Key ☐ Key – IA Main ☐ IA

### #59 AMA informed about amendment to VAT Sector Info 14 (Financial Sector)

The *Swiss Asset Management Association* AMA informed that the *Swiss Federal Tax Administration* FTA published on 30 March 2021 amendments to its *Value Added Tax VAT practice affecting collective investment schemes*.

- The *VAT Sector-Info 14 (Financial Sector)* was aligned to the *new financial market law system* and terminology in accordance with *FinSA / FinIA*.
- The amendments resulted in *no material change* in FTA's VAT practice; the previous practice will be continued unchanged.

## Information

Press Release: [HTML]

<https://www.am-switzerland.ch/verband/de>



**31.03.2021** 6.1 Client Suitability

☐ Key ☐ Key – IA Main ☐ IA

### #60 FCA informed about future consultation on strengthening investor protections in Special Purpose Acquisition Companies SPACs

The UK *Financial Conduct Authority* FCA confirmed that it will be *consulting shortly on amendments to the Listing Rules and related guidance to strengthen protections for investors in Special Purpose Acquisition Companies SPACs*.

- The consultation will consider the *structural features and enhanced disclosure*, including a *minimum market capitalization* and a *redemption option* for investors, required to provide appropriate investor protection.

- The proposals will help to ensure that SPACs *operate within a framework of high regulatory standards and oversight*. Where such protections are in place, FCA considers that the *existing presumption of suspension of the listing for such companies at the point of announcement of an acquisition target is no longer required*.
- FCA therefore intends to consult on this basis, aligning this element of its rules more closely with other major jurisdictions.
- FCA intends for the *consultation* to be open for a 4-week period and will welcome views from the full range of stakeholders. Subject to that process, it would aim to make the new rules and / or guidance by *early summer*.

## Information

Press Release: [HTML]

<https://www.fca.org.uk/news/statements/future-consultation-strengthening-investor-protections-spacs>



**31.03.2021**

4.4 Processes for the Management of Complaints / Litigations / Whistleblowing / Investigation Cases

☐ Key ☐ Key – IA Main ☐ IA

### #61 ESAs issue a report on the application of their Guidelines on complaints-handling

The *Joint Committee* of the *three European Supervisory Authorities* ESAs<sup>5</sup> published a *Report on the application of their Guidelines on complaints-handling*. The *Report concludes* that the *Guidelines have contributed to a consistent approach to complaints-handling across the banking, insurance and securities sectors and have resulted in better outcomes for consumers*.

- This *Report* examines how the *ESAs Guidelines on complaints-handling* have been applied since they came into force by using input provided by *44 national competent authorities NCAs* from *29 countries*.
- The *Report* describes the *extent to which the objectives of the Guidelines have been achieved*, the supervisory actions that NCAs have undertaken as a result of their national implementation, including the steps taken to identify *good / poor practices* by firms, as well as the challenges faced.
- The *Report concludes* that the *Guidelines have contributed to a consistent approach to complaints-handling across the banking, insurance and securities sectors and have resulted in better outcomes for consumers*. Against this background, the ESAs are of the view that *there is no need for revising the Guidelines at this stage*.

## Information

Joint Committee Report on the assessment of the application of the Guidelines on complaints-handling

[https://www.eba.europa.eu/sites/default/documents/files/document\\_library/Publications/Reports/2021/Report%20on%20the%20application%20of%20their%20Guidelines%20on%20complaints-handling/972147/JC%202021%2024%20Report%20on%20complaints-handling.pdf](https://www.eba.europa.eu/sites/default/documents/files/document_library/Publications/Reports/2021/Report%20on%20the%20application%20of%20their%20Guidelines%20on%20complaints-handling/972147/JC%202021%2024%20Report%20on%20complaints-handling.pdf)

30 pages

<sup>5</sup> EBA, EIOPA and ESMA





31.03.2021 General, Macroeconomics

☐ Key ☐ Key – IA Main ☐ IA

## #62 EBA published Risk Dashboard for the last quarter of 2020

The European Banking Authority EBA published its **Risk Dashboard for the last quarter of 2020**. The data show a *rise in capital ratios*, a *contraction of the NPL ratio* and a *return on equity RoE significantly below banks' cost of equity*. Besides asset quality and profitability, operational risks remain a **key concern going forward**.

- **Capital ratios** continued to *improve* in Q4, driven by an increase in capital, which more than offset a slight rise in risk weighted assets. The **CET1 ratio** reached a new all-time high of 15.5% on a fully loaded basis, up by 40bps QoQ. The leverage ratio (on a fully loaded basis) increased to 5.8% from 5.5% in the previous quarter. This was supported by growing capital, but also a decline in total assets.
- The **NPL ratio decreased** by 20bps to 2.6%. The decline was due to a *contraction* in NPLs, which exceeded the decrease in loans and advances. NPL ratios declined for both households and *non-financial corporates* NFCs. While the NPL ratio improved for most economic sectors it increased for accommodation and food services (up from 7.8% to 8.5% QoQ) and arts, entertainment, and recreation (up from 6.7% to 7.3%). The share of **stage 2 loans** reached 9.1% in Q4, showing a 110bps increase QoQ.
- **Loans under EBA eligible moratoria** *nearly halved* in Q4. They *declined* from around **EUR 590bn** in Q3 to around **EUR 320bn** in Q4. The decline was more pronounced for NFC exposures than for loans to households. The share of **stage 2 loans** under moratoria (26.4%) is above that for loans under expired moratoria (20.1%) and nearly three times the ratio for total loans (9.1%). This might indicate that loans, which are still under moratoria, might be those with higher risks looking forward. Loans under public guarantee schemes (PGS) reached about **EUR 340bn**, up from around **EUR 290bn** in Q3. Whereas for PGS loans the share of stage 2 loans (11.7%) was above the overall average of 9.1%, the NPL ratio (1.1%) was less than half of the overall average (2.6%).
- **Profitability** remained *strongly subdued*. **RoE declined** from 2.5% in Q3 to 2% in Q4. The rise in net fee and commission income could not compensate for the decline in net interest income. The latter was due to the contraction in interest bearing assets, amid a flat net interest margin. **Cost of risk remained high** and nearly unchanged at 75bps, but with high dispersion, indicating different situations among individual banks. The cost to income ratio rose by 40bps to 65.1% in Q4.
- **Pressure on profitability** is expected to *remain persistently high*. The deterioration of asset quality and uncertainty on the recovery might keep the cost of risk elevated, while strong competition continues to add pressure on net interest margins and fee income. In the short-term, the repricing of wholesale funding might be faster than that of the asset side, hence, adding pressure on margins. Banks will need to streamline their operational structure not least because their clients are increasingly using digital channels.

- Banks' **liquidity position** further *improved*. The liquidity coverage ratio (LCR) reached 173.1% in Q4 (171.2% in Q3). The loan to deposit ratio declined from 113.6% in Q3 2020 to 112.2% in Q4, supported by a rise in client deposits from households and NFCs. The asset encumbrance ratio remained unchanged at 27.9%.
- **Phishing attempts** and other types of **cyber-attacks** are becoming more common. The increase in remote customer on boarding and a rising participation in virtual currency transactions may *expose banks to additional money laundering ML / terrorist financing TF risks*. Risks of new types of misconduct and of potentially fraudulent activities related to **COVID-19 support measures** have not abated.

## Information

Risk Dashboard – Data as of Q4 2020

[https://www.eba.europa.eu/sites/default/documents/files/document\\_library/Risk%20Analysis%20and%20Data/Risk%20dashboard/Q4%202020/972092/EBA%20Dashboard%20-%20Q4%202020.pdf](https://www.eba.europa.eu/sites/default/documents/files/document_library/Risk%20Analysis%20and%20Data/Risk%20dashboard/Q4%202020/972092/EBA%20Dashboard%20-%20Q4%202020.pdf)

51 pages

Annex: Credit Risk Parameters Q4 2020

[https://www.eba.europa.eu/sites/default/documents/files/document\\_library/Risk%20Analysis%20and%20Data/Risk%20dashboard/Q4%202020/972089/KRI%20-%20Risk%20parameters%20annex%20-%20Q4%202020.pdf](https://www.eba.europa.eu/sites/default/documents/files/document_library/Risk%20Analysis%20and%20Data/Risk%20dashboard/Q4%202020/972089/KRI%20-%20Risk%20parameters%20annex%20-%20Q4%202020.pdf)

10 pages

Annex: Risk Parameters Q4 2020 [Excel]

[https://www.eba.europa.eu/sites/default/documents/files/document\\_library/Risk%20Analysis%20and%20Data/Risk%20dashboard/Q4%202020/972090/KRI%20-%20Risk%20parameters%20annex%20-%20Q4%202020.xlsx](https://www.eba.europa.eu/sites/default/documents/files/document_library/Risk%20Analysis%20and%20Data/Risk%20dashboard/Q4%202020/972090/KRI%20-%20Risk%20parameters%20annex%20-%20Q4%202020.xlsx)

Interactive Dashboard Q4 2020 [Excel]

[https://www.eba.europa.eu/sites/default/documents/files/document\\_library/Risk%20Analysis%20and%20Data/Risk%20dashboard/Q4%202020/972091/EBA%20Interactive%20Dashboard%20-%20Q4%202020-%20Protected.xlsm](https://www.eba.europa.eu/sites/default/documents/files/document_library/Risk%20Analysis%20and%20Data/Risk%20dashboard/Q4%202020/972091/EBA%20Interactive%20Dashboard%20-%20Q4%202020-%20Protected.xlsm)



31.03.2021 4.1 Corporate and Legal Entity Governance

☐ Key ☐ Key – IA Main ☐ IA

## #63 EBA reviews final Q&As against revised legislation

The European Banking Authority EBA *reviewed Q&As published in its Single Rulebook Q&A tool against the revised Capital Requirements Regulation (CRR), Capital Requirements Directive (CRD) and Bank Recovery and Resolution Directive (BRRD)*. The published Q&As were *updated* in line with the revised legal acts, and the *outcome has been reflected in the Q&A tool*. An overview of all the reviewed Q&As is referenced below.

- The update of the **Interactive Single Rulebook** is underway and will be completed in the coming weeks.
- The review covered Q&As published in relation to the aforementioned legal acts that address policy issues.
- Supervisory reporting related Q&As were not covered with the exception of questions related to the **revised ITS on Supervisory Benchmarking**.

## Information

Overview of QAs reviewed against revised CRR CRD and BRRD [Excel]

[https://www.eba.europa.eu/sites/default/documents/files/document\\_library/972153/Overview%20of%20QAs%20reviewed%20against%20revised%20CRR%20CRD%20and%20BRRD%20%28published%29%20%281%29.xlsx](https://www.eba.europa.eu/sites/default/documents/files/document_library/972153/Overview%20of%20QAs%20reviewed%20against%20revised%20CRR%20CRD%20and%20BRRD%20%28published%29%20%281%29.xlsx)



31.03.2021 6.2 Client-related Conflicts of Interest

☐ Key ☐ Key – IA Main ☐ IA

### #64 EIOPA partially supports a planned prohibition of some unit-linked life insurance products by the Polish KNF

The European Insurance and Occupational Pensions Authority EIOPA issued an **Opinion on a proposed product intervention measure of the Polish Komisja Nadzoru Finansowego KNF under the Packaged Retail and Insurance-Based Investment Products PRIIPs Regulation**.

- KNF has **identified risks** for policyholders buying unit-linked insurance products in Poland and has **informed** EIOPA and competent authorities of a **proposed product intervention measure** under **Article 17** of the **PRIIPs Regulation**.
- The **proposed measure aims** to address **product profitability**, some of the investments being offered, and how fees and commissions are disclosed.
- The **product intervention powers** under the **PRIIPs Regulation** are a last resort measure to address and prevent specific significant investor protection concerns and should be used by competent authorities only under the strict conditions set out in the **PRIIPs Regulation**.
- In particular, the powers can only be used if applicable regulatory requirements under EU law do not sufficiently address the risks identified and the issue would not be better addressed by improved supervision or enforcement of existing requirements.
- Following an analysis of the case, EIOPA **concluded** that there are **significant investor protection concerns** that should be addressed.
- The Polish **unit-linked market** appears, based on data available to EIOPA, to be an **outlier when compared to other EU markets**, notably due to the **high level of costs**. A targeted product intervention measure to address risks associated with product profitability can be justified in the interest of consistent and timely action. Action is also justified and proportionate with regard to certain **highly risky investments in contingent convertibles**.
- However, EIOPA is of the view that the proposed product intervention measure is not justified or proportionate** for tackling other concerns with the investments being offered, or the transparency of fees and commissions. Other supervisory or regulatory measures could be considered instead.
- EIOPA has **highlighted concerns** over the years with some **unit-linked life insurance products** and has **identified the emergence of similar value for money risks** to those highlighted by KNF in the wider European market.
- This **requires further coordinated action** at the EU level, so as to tackle risks for consumers and avoid similar product interventions being necessary in the future.

- EIOPA therefore **will launch a public consultation** on **measures to address value for money risks** to ensure good outcomes for EU consumers.

## Information

Opinion of the European Insurance and Occupational Pensions Authority on the proposed product intervention measure of Komisja Nadzoru Finansowego of Poland

<https://www.eiopa.europa.eu/sites/default/files/publications/opinions/opinion-product-intervention-knf.pdf>

23 pages



31.03.2021 General, Supervisory Framework

☐ Key ☐ Key – IA Main ☐ IA

### #65 BIS GHOS met to endorse strategic priorities and work program of BCBS and discuss global initiatives on non-bank financial intermediation

The **Bank for International Settlements BIS** informed that the **Group of Central Bank Governors and Heads of Supervision GHOS**, the **oversight body** of the **Basel Committee on Banking Supervision BCBS**, **endorsed the strategic priorities and work program of the BCBS for 2021–2022**.

- Consistent with the **previous GHOS agreement** to mark a **clear end to the Basel III policy agenda**, the new work program places high priority on:
  - the implementation and evaluation of previously agreed reforms,
  - assessing emerging risks and vulnerabilities, and
  - increasing supervisory cooperation.
- BCBS will also keep **monitoring the resilience of the global banking system** as the **COVID-19 pandemic** continues to unfold, ensuring that banks contribute to the subsequent recovery sustainably. **The work program will be published in April 2021**.
- GHOS members also took the opportunity to exchange views on various ongoing global initiatives on **non-bank financial intermediation NBFI**.
- NBFI now accounts for almost half of the global financial system** and plays an **increasing role in providing financing to the real economy**. Banks and non-bank financial entities are **interconnected** through multiple channels. The safety and soundness of the NBFI sector is therefore important to the safety and soundness of the banking sector.
- GHOS members agreed that **NBFI initiatives** should take a **holistic approach**, as followed by the **Financial Stability Board FSB**, considering the need to improve the resilience of NBFI, to **minimize systemic risk and to meet other market-related objectives**.
- Such initiatives should also **safeguard the resilience** and **agreed prudential standards** of the global banking system, which have been a critical support in the management of the **COVID-19 crisis**.
- In the meantime, **bank supervisors should continue to monitor NBFI developments** to better gauge the range of direct and indirect interconnections with the banking system.

## Information

Press Release: [HTML]  
<https://www.bis.org/press/p201130.htm>



31.03.2021 General, Macroeconomics

☐ Key ☐ Key – IA Main ☐ IA

#### #66 FSB released final report on the evaluation of the effects of too-big-to-fail reforms

The Financial Stability Board FSB published the *final report* on its **evaluation of the effects of too-big-to-fail TBTF reforms for systemically important banks SIBs**. The evaluation *examines* the extent to which the reforms have *reduced the systemic and moral hazard risks* associated with SIBs, as well as their broader effects on the financial system.

- The *evaluation finds* that *TBTF reforms have made banks more resilient and resolvable, and that they have produced net benefits to society*. Indicators of *systemic risk and moral hazard moved in the right direction*, suggesting that market participants view these reforms as credible.
- *Increased bank resilience and greater market discipline* have been tested by the **COVID-19 pandemic**. However, banks – thanks also to the unprecedented fiscal, monetary and supervisory support measures – have so far been able to absorb the shock.
- Nevertheless, the *evaluation finds some gaps* that need to be addressed:

- *Resolution reforms should be implemented in full* to enhance the feasibility and credibility of resolution, minimizing the need for state support of failing banks. This includes further work to enhance the resolvability of SIBs.
- There is still scope to improve *public disclosures of information relating to resolution frameworks and funding mechanisms*, the resolvability of SIBs and resolution actions.
- Information may be needed for public authorities to assess the *potential impact of resolution actions* (such a *bail-in*) on the financial system and the economy.
- The *application of the reforms to domestic systemically important banks warrants further monitoring*. In addition, risks arising from the shift of credit intermediation to non-bank financial intermediaries should continue to be closely monitored.

### Information

Evaluation of the Effects of Too-Big-To-Fail Reforms  
<https://www.fsb.org/wp-content/uploads/P010421-1.pdf>  
160 pages

Evaluation of the effects of the too-big-to-fail reforms  
<https://www.fsb.org/wp-content/uploads/P010421-2.pdf>  
7 pages

Evaluation of the effects of the too-big-to-fail reforms – Addendum to the Technical Appendix  
<https://www.fsb.org/wp-content/uploads/P010421-3.pdf>  
62 pages

## 5. Enforcement



30.03.2021 13.2 Credit Risk Control Framework

☐ Key ☐ Key – IA Main ☐ IA

#### #67 ESMA fined Moody's EUR 3.7m for conflicts of interest failures

The European Securities and Markets Authority ESMA **fined five entities** in the Moody's Group, based in *France, Germany, Italy, Spain and the UK*, a total of **EUR 3,703,000** and issued **public notices** for *breaches* of the *Credit Ratings Agencies Regulation CRAR* regarding *independence and the avoidance of shareholder conflicts of interest*.

- The **breaches** related to:
  - the *issuance of credit ratings in violation of the ban on issuing new ratings on entities where a credit rating agency CRA shareholder exceeds the 10% ownership threshold* and / or is a board member of the rated entity;
  - *failure to disclose conflicts of interests* related to the 5% ownership threshold; and
  - *inadequate internal policies and procedures to manage shareholder conflicts of interest*.
- All the breaches were found to have resulted from *negligence* on the part of *Moody's*.

- The *five entities* subject to the action are *Moody's Investors Service Ltd (Moody's UK), Moody's France S.A.S. (Moody's France), Moody's Deutschland GmbH (Moody's Germany), Moody's Italia S.r.l. (Moody's Italy), and Moody's Investors Service España S.A. (Moody's Spain)*.
- ESMA believes it is crucial, to ensure independent good quality ratings and to protect investors, that CRAs carefully identify, and subsequently eliminate or manage and disclose conflicts of interest to avoid interference by shareholders with the rating process.
- **Breaches of the Credit Rating Regulation**
  - The *infringements* committed by *Moody's UK*, for which it was fined **EUR 2,735,000**, were:
    - ❖ *issuing new ratings in violation of the ban related to the 10% ownership threshold*, in particular the *prohibition* to issue a new rating where a shareholder holding 10% or more of the capital or voting rights of the CRA also holds 10% or more of the capital or voting rights or is a member of the administrative or supervisory board of the rated entity;

- ❖ the *lack of appropriate disclosure regarding shareholder conflicts of interests* which occurred in **206 instances** for **65 rated entities**. Regarding the requirement to *publicly disclose* where an existing rating is potentially affected by a situation where a shareholder of a CRA holding 5% or more of the capital or voting rights of the CRA also holds 5% or more of the capital or voting rights, or is a member of the administrative or supervisory board of the rated entity;
- ❖ a *lack of adequate policies and procedures*. It was found that although Moody's *Procedure on Shareholding*, aimed at *avoiding the conflicts of interests*, contained the legal ban to issue new ratings related to the 10% threshold, it also included an incorrect exception to the ban;
- ❖ a *lack of appropriate and effective organizational and administrative arrangements*, with significant shortcomings in the data source used to identify conflicts; and
- ❖ a *lack of sound administrative, accounting procedures and internal control mechanisms*.
- The Moody's entities in France, Germany, Italy and Spain each committed the following *infringement*:
  - ❖ *lack of appropriate disclosure regarding shareholder conflicts of interests*, which occurred in **72 instances** for **36 rated entities**. Regarding the *requirement to publicly disclose* where an existing rating is potentially affected by a situation where a shareholder of a CRA holding 5% or more of the capital or voting rights of the CRA, holds 5% or more of the capital or voting rights or is a member of the administrative or supervisory board of the rated entity.
- They were each **fined** the following amounts:
  - ❖ Moody's France – **EUR 280,000**;
  - ❖ Moody's Germany – **EUR 340,000**; and
  - ❖ Moody's Italy and Moody's Spain – **EUR 174,000** each.

## Enforcement

Press Release: [HTML]

<https://www.esma.europa.eu/press-news/esma-news/esma-fines-moody%E2%80%99s-%E2%82%AC37-million-conflicts-interest-failures>

Public Notice:

<https://www.esma.europa.eu/file/112366/download?token=ZFsfuMLZ>

25 pages



**31.03.2021** 3.3 Anti-Competitive Behavior, including Tying

☐ Key ☐ Key – IA Main ☐ IA

### #68 PSR provisionally finds five companies broke the law by engaging in cartel behavior in the pre-paid cards market

The UK Payment Systems Regulator PSR has issued a **Statement of Objections** that alleges that Mastercard, allpay, APS, PFS and Sulion engaged in *anti-competitive behavior* by *agreeing not to compete or poach each other's clients*. Three out of five parties admit liability for breaching competition rules and *agree to pay* maximum **penalties** totaling over **GBP 32m** as part of settlement.

- The case relates to *pre-paid cards* that are used by local authorities to distribute welfare payments to vulnerable members of society, such as the homeless, victims of domestic violence and asylum seekers.
- In its *Statement of Objections*, sent to the five parties, the PSR alleges that there were *two infringements of the Competition Act 1998* that took the form of *market sharing / customer allocation*:
  - One lasting **six years** (between **2012 and 2018**) and involving all five parties.
  - The other lasting **two years** (between **2014 and 2016**) and involving APS and PFS.
- The *Statement of Objections* sets out the PSR's case against the parties but *is not the end of the investigation* and the parties now have the opportunity to make representations on the provisional findings.
- In **February 2021** Mastercard, allpay and PFS *agreed to settle* with the PSR and *admitted that they took part in the alleged anticompetitive arrangement(s)*.
- Should the PSR ultimately conclude that there have been infringements, Mastercard, allpay and PFS have *agreed to pay* maximum **finest** totaling over **GBP 32m**.

## Enforcement

Press Release: [HTML]

<https://www.psr.org.uk/news-updates/latest-news/news/the-psr-provisionally-finds-five-companies-broke-the-law-by-engaging-in-cartel-behaviour-in-the-pre-paid-cards-market/>



**1.04.2021** 12.3 Regulatory Reporting

☐ Key ☐ Key – IA Main ☐ IA

### #69 APRA takes action against Macquarie Bank over multiple breaches of prudential and reporting standards

The Australian Prudential Regulation Authority APRA increased Macquarie Bank Limited's **liquidity and operational risk capital requirements** in response to *multiple material breaches of APRA's prudential and reporting standards*.

- The *enforcement action* relates to the *incorrect treatment of specific intra-group funding arrangements for the purposes of calculating capital and related entity exposure metrics*, as well as *multiple breaches of APRA's reporting standards on liquidity* between **2018 and 2020**.
- These resulted from *deficiencies* in Macquarie Bank's ability to *manage the operational risk* inherent in the *complex intra-group structure*, within which it transacts with its related entities.



- The *breaches are historical* and *do not impact on the current overall soundness* of Macquarie Group's capital or liquidity positions. However, they *raise serious questions* about the bank's *risk management practices and ability to calculate and report key prudential ratios*.
- As a consequence of the breaches, APRA will **require**:
  - Macquarie Bank to hold an operational **capital overlay** of **AUD 500m**, reflecting deficiencies in its management of operational risk inherent in the bank's intra-group structure;
  - a **15% add-on** to the net cash outflow component of its LCR calculation; and
  - a **1% adjustment** to the available stable funding component of its NSFR calculation.
- The increases in Macquarie Bank's capital and liquidity requirements will *take effect from 1 April 2021*. In addition, APRA will require Macquarie Bank to *resubmit and restate selected regulatory returns*.
- APRA Deputy Chair John Lonsdale said: "APRA's legally-binding prudential and reporting standards play an essential role in enabling APRA to adequately monitor risks to financial safety and stability. For one of the country's largest financial institutions to have committed breaches of this nature is disappointing and unacceptable."
- "Alongside the enforcement actions, APRA will subject Macquarie Bank to intensified supervision to address the bank's persistent difficulties in complying with its prudential obligations. We cannot rule out further action as more information comes to light about the root causes of these breaches," Mr. Lonsdale said.

## Enforcement

Press Release: [HTML]

<https://www.apra.gov.au/news-and-publications/apra-takes-action-against-macquarie-bank-over-multiple-breaches-of-prudential>



**1.04.2021** 6.2 Client-related Conflicts of Interest

☐ Key ☐ Key – IA Main ☐ IA

### #70 ASIC sues CBA for misleading conduct over monthly access fees

The Australian Securities & Investments Commission ASIC commenced **civil penalty proceedings** in the Federal Court against the Commonwealth Bank of Australia (CBA), alleging that it *charged monthly access fees to customers when it was not entitled to do so*.

- ASIC alleges that, between **1 June 2010 and 11 September 2019**, CBA *incorrectly charged monthly access fees* to customers who were entitled to fee waivers because they met certain criteria under their contracts with the bank. *Almost AUD 55m in fees were charged* to nearly one million customers and more than 800,000 accounts.
- For the period between **1 April 2015 and 11 September 2019**, the period for which the Court can impose a penalty, ASIC

alleges that CBA *incorrectly charged monthly access fees* on approximately **2.4 million occasions**, totaling around **AUD 11.5m**.

- ASIC alleges that CBA incorrectly charged monthly access fees to customers entitled to fee waivers due to systems and processes that were inadequate or improperly configured *in 30 different ways*, as well as due to manual errors made by CBA staff.
- ASIC also alleges that each time CBA charged the fees or notified a customer via bank statement of the charging of each fee, it *made false or misleading representations* that it was contractually entitled to charge the fees when it was not.
- Further, ASIC alleges that each time CBA entered into a contract with a customer to establish an account where a fee waiver may apply, it made *false or misleading representations that it would have adequate systems and processes in place to provide the fee waivers*, when it did not.
- By engaging in the above conduct, ASIC alleges that CBA also engaged in *misleading or deceptive conduct* and *contravened its obligation* as an Australian financial services licensee to comply with financial services laws.
- ASIC also alleges that CBA *failed to provide financial services efficiently, honestly and fairly* by:
  - failing to apply monthly access fee waivers to customer accounts after it had represented it would do so;
  - failing to maintain systems and processes that were capable of meeting obligations to customers; and
  - failing to undertake an appropriate review of the multiple systemic issues that contributed to the ongoing failure of its systems to apply monthly access fee waivers in accordance with the bank's contract with its customers.
- ASIC *commenced this proceeding because financial institutions need to have robust compliance systems to meet their obligations to customers*.
- *Financial institutions need to put customers first*, and customers should have confidence that the banks they deal with charge fees correctly.
- The proceeding will be listed for a case management hearing on a date yet to be set.

## Enforcement

Press Release: [HTML]

<https://asic.gov.au/about-asic/news-centre/find-a-media-release/2021-releases/21-063mr-asic-sues-cba-for-misleading-conduct-over-monthly-access-fees/>

Notice of Filing and Hearing – Originating Process

<https://download.asic.gov.au/media/6024180/21-063mr-20210331-originating-process-19002566-sealed.pdf>  
8 pages

Notice of Filing – Concise Statement

<https://download.asic.gov.au/media/6024186/21-063mr-20210331-concise-statement-19002566-sealed.pdf>  
36 pages

Herrliberg, 2 April 2021 / JCR

**Appendix:** IIA's Overview of the "Risky six"

## Appendix

The *Institute of Internal Auditors* IIA and *Ernst & Young LLP* EY release a *joint report*, “[The Risky Six: Key questions to expose gaps in board understanding of organizational cyber resiliency.](#)”

### Overview of the “Risky Six”

Review the following [questions](#) and *ask if your organization can provide answers to all six with depth and understanding*. If the answer is “no,” to any or all of them, read further as a “no” to one question can greatly impact the responses to the others. The report delves deeper into each question and explains *how being able to answer each of them in the affirmative can help your board bridge gaps* in their understanding of your organization’s true *cyber resiliency*.

Six cyber questions every board should be able to answer “yes” to:

1. Has your organization conducted a recent enterprise-wide cyber risk assessment?	<input type="checkbox"/> yes <input type="checkbox"/> no
2. Has your organization implemented a data governance program beyond basic classification?	<input type="checkbox"/> yes <input type="checkbox"/> no
3. Have cyber risks and responses been incorporated distinctly into your crisis management program?	<input type="checkbox"/> yes <input type="checkbox"/> no
4. Has your organization conducted a recent third-party and/or joint venture cyber risk assessment?	<input type="checkbox"/> yes <input type="checkbox"/> no
5. Is cybersecurity included in the audit plan and/or is internal audit being leveraged as a tool to help your organization manage cyber risk?	<input type="checkbox"/> yes <input type="checkbox"/> no
6. Is the effectiveness of cyber controls measured and reported in a consistent, meaningful manner?	<input type="checkbox"/> yes <input type="checkbox"/> no

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