Grant Thornton

THE FINANCIAL SERVICES INSIDER

RISK & REGULATORY INSIGHTS

QUARTERLY NEWSLETTER

REGULATORY UPDATES

January 2021

HIGHLIGHTS

Fourth quarter of 2020 saw a lot of important developments on a variety of issues in the area of Anti-Money Laundering, Fintech, ESG, Capital Market, Risk Management, while at the same time regulators continued to manage the challenges from the coronavirus (COVID-19) pandemic.

Anti-Money Laundering (AML)

An updated list of non-cooperative jurisdictions for tax purposes was released by the European Union and an Implementing Regulation was published with regards to procedures and forms for the exchange of information between various authorities with ESMA.

The Financial Action Task Force (FATF) encouraged countries and jurisdictions to continue to make efforts to implement the FATF Recommendations to a high standard despite the current challenging climate.

The conclusions of the Council of the European Union regarding the AML sector were discussed with the aim to assist the EC’s legislative proposal on the Single Rule Book for 2021 and the European Banking Authority (EBA) published an Opinion on strengthening the interplay between the EU legal frameworks on anti-money laundering and terrorist financing; and a methodology on carrying out AML risk assessments.

HIGHLIGHTS

Environmental, Social and Governance (ESG)

The European Central Bank (ECB) published its final and amended guide on climate-related and environmental risks and a report on institutions' climate-related and environmental risk disclosures.

The European Insurance and Occupational Pensions Authority (EIOPA) published a sensitivity analysis of climate-related transition risks in the investment portfolios of European insurers.

FinTech

The issuance of digital euro is one of the most important developments in the area of Fintech. The euro will be offered in digital form. Further details regarding its use will be provided from the European Central Bank the following months.

A new EU Cybersecurity Strategy was published allowing EU to strengthen its cooperation with partners around the world to promote global, open stable and secure cyberspace.

Risk Management

The Financial Stability Board ("FSB") published a report on the use of supervisory and regulatory technology by FSB members and regulated institutions. Furthermore, the FSB published a report providing an overview of the progress on the implementation of the second phase of the G20 Data Gaps Initiative.

The European Banking Authority published its annual work programme for 2021.

The European Securities and Markets Authority (ESMA) launched a public consultation on supervisory fees for data reporting services providers (DRSPs). The European Securities and Markets Authority (ESMA) launched a compliance table in relation to MMF Stress Test Guidelines.

Moreover, the EBA published (i) a Report on significant risk transfer (SRT) in securitization transactions, and (ii) the final methodology for the 2021 EU-wide stress test. In addition, the EBA published (i) Guidelines on legislative and non-legislative moratoria, (ii) a report on the impact of implementing the final Basel III, (iii) a final draft RTS to specify the value that institutions are to use when computing the own funds requirements for market risk for banking book positions,

HIGHLIGHTS

(iv) a report about the annual risk assessment of the European banking system, (v) an opinion on the amendments proposed by the European Commission as regards the EBA final draft RTS, (vi) a final draft RTS on the contractual recognition of stay powers, (vii) a consultation on RTS on the calculation risk-weighted exposure amounts of collective investment undertakings (CIUs) in line with the Capital Requirements Regulation (CRR), (viii) a final draft RTS on the prudential treatment of investment firms, (ix) a final draft RTS on capital requirements of non-modellable risks under the FRTB & (x) launched a consultation to amend standards on benchmarking of internal models.

The European Banking Authority (EBA) welcomed the European Commission's comprehensive action plan to tackle the expected rise of non-performing loans (NPLs) on banks' balance sheets following the outbreak of the COVID-19 pandemic.

Capital Markets

The Financial Stability Board published a roadmap to enhance cross-border payments in order to address the key challenges often faced by cross-border payments and the frictions in existing processes.

ESMA published its first report in regard to the use of sanctions under the Alternative Investment Fund Managers Directive ("AIFMD"). ESMA also issued a statement in regard to the priorities of the annual financial reports for 2020.

Furthermore, EBA presented a report on benchmarking of national insolvency frameworks across the European Union. The European Banking Authority (EBA) issued an Opinion to the European Commission on the proposed amendments to the EBA final draft regulatory technical standards (RTS) on Internal Rating Based (IRB) assessment methodology.

The European Banking Authority (EBA) published in December its final draft Regulatory Technical Standards (RTS) on the contractual recognition of stay powers. The Council of EU Ministers (the Council) agreed package of amendments to European financial services legislation including targeted amendments to MiFID II (so called MiFID "quick fix").

Anti-Money Laundering (AML)

The conclusions of the Council of the European Union regarding the AML sector were discussed with the aim to assist the EC's legislative proposal on the Single Rule Book for 2021.

EU list of non-cooperative jurisdictions

On 7 October 2020, the EU published the list of non-cooperative jurisdictions for tax purposes. The goal is to tackle the following:

1) tax fraud or evasion, namely the illegal non-payment or under payment of tax
2) tax avoidance, namely the use of legal means to minimise tax liability
3) money laundering, namely the concealment of origins of illegally obtained money

Note that the list is revised on a regular basis.

You can find the current list here.

EC Implementing Regulation on procedures and forms for exchange of information and cooperation between specific authorities

On 7 October 2020, the EU published in the Official Journal of the EU the Implementing Regulation (EU) 2020/1406 of 2 October 2020 (the "Regulation") laying down technical standards implementation with regard to procedures and forms for exchange of information and cooperation between specific authorities.

The Regulation applies to cooperation and exchange of information between the various bodies such as between competent authorities and ESMA, the Commission, the agency for the cooperation of energy regulators (ACER) etc

You can find more information here.

FATF's final plenary virtual 2020 event

From 21 to 23 October 2020, the Financial Action Task Force (FATF) held virtually the final plenary of 2020.

The discussion was focused on Strategic Initiatives responding to Covid-19. Moreover, the FATF encouraged countries and jurisdictions to continue to make efforts to implement the FATF Recommendations to a high standard despite the current challenging climate. FATF noted that it is paramount for countries and jurisdictions to "fully and effectively implement the FATF Recommendations, using a risk-based approach". FATF also announced the postponement of assessments and follow-up deadlines in response to the COVID-19 pandemic.

You can find more about this here.

Council of the European Union Conclusions on anti-money laundering and terrorism financing

The conclusions of the Council of the European Union (the "Council") aim to provide the Commission with guidance in advance of its legislative proposals in 2021 on a single rule book, EU-level supervision and a coordination and support mechanism for Member States' financial intelligence units.

The Council outlines various areas which the Commission should consider harmonising via a directly applicable regulation. The Council also supports setting up an EU-level supervisor with direct supervisory powers over a selected number of high-risk obliged entities, as well as the authority to take over supervision from a national supervisor in clearly defined and exceptional situations.

More information in regard to this you can find here.

EBA Opinion on strengthening the interplay between the EU Anti-Money Laundering Directive and the EU Deposit Guarantee Schemes Directive

On 14th December 2020, EBA published an Opinion on how to strengthen the connection between the EU legal framework on anti-money laundering and terrorist financing, and deposit protection.

In its Opinion, the EBA assessed how information about potential money laundering or terrorist financing risks of depositors is identified and transmitted to deposit guarantee schemes (DGSs) ahead of them repaying depositors.

The eleven proposals outlined in the Opinion are a result of the EBA's further analysis of the topics previously addressed in the EBA Opinion on the eligibility of deposits, coverage level and cooperation between deposit guarantee schemes (published in August 2019) and the EBA Opinion on deposit guarantee scheme payouts (published in October 2019). The proposals should be read alongside the recommendations made in those two Opinions, as well as in the EBA Opinion on the future AML/CFT framework in the EU, published on 10 September 2020.

Although the EBA is mindful of only one real-life resolution case where there were AML/CFT concerns, the issues and proposals identified in this Opinion may also be relevant to other intervention scenarios.

EBA's methodology for carrying out risk assessments under Article 9a of the revised EBA Regulation

The European Banking Authority (EBA) published on 17 December 2020 the methodology for carrying out risk assessments under Article 9a of the revised EBA Regulation.

The risk assessments form part of the EBA's new role to lead, coordinate and monitor the fight against money laundering and terrorist financing (ML/TF) in all EU Member States. Article 9a risk assessments form part of the EBA's convergence and monitoring toolbox. EBA staff will follow a five-stage process: (1) identifying emerging risks for the assessment; (2) setting the scope for the assessment; (3) identifying competent authorities for the assessment; (4) conducting the Article 9a risk assessment; (5) providing the outcomes of the risk assessment.

Environmental, Social and Governance (ESG)

The European Central Bank (ECB) published its final and amended guide on climate-related and environmental risks and a report on institutions' climate-related and environmental risk disclosures.

ECB Guide on climate-related and environmental risks and supervisory expectations relating to risk management and disclosure

On 27 November 2020 the European Central Bank (ECB) published its final and amended guide on climate-related and environmental risks.

The guide outlines the ECB's understanding of the safe and prudent management of climate-related and environmental risks under the current prudential framework. It describes how the ECB expects institutions to consider climate-related and environmental risks – as drivers of existing categories of risk – when formulating and implementing their business strategy and governance and risk management frameworks. It further explains how the ECB expects institutions to become more transparent by enhancing their climate-related and environmental disclosures.

The guide is not binding for the institutions, but it serves as a basis for supervisory dialogue.

The ECB will follow up with banks in two concrete steps: (1) In early 2021 it will ask banks to conduct a self-assessment in light of the supervisory expectations outlined in the guide and to draw up action plans on that basis; (2) The ECB will then benchmark the banks' self-assessments and plans, and challenge them in the supervisory dialogue. Note that in 2022 the ECB will conduct a full supervisory review of banks' practices and take concrete follow-up measures where needed.

ECB report on institutions' climate-related and environmental risk disclosures

In November 2020, the European Central Bank (ECB) published a report on institutions-climate related and environmental risk disclosures.

The report provides that banks are lagging behind on their climate-related and environmental risk disclosures. While there has been some improvement since the previous year, banks need to make significant efforts to better support their disclosure statements with relevant quantitative and qualitative information. In the second half of 2021 the ECB intends to identify remaining gaps and discuss these with the banks.

EIOPA sensitivity analysis of climate-related transition risks in the investment portfolios of European insurers

EIOPA's analysis considers the current holdings by European insurers of corporate bonds and equity that relate to key climate-policy related sectors such as fossil fuel extraction (i.e. coal mining), carbon-intensive industries, vehicle production and the power sector.

The analysis also considers the possible impact of transition away from such fossil fuel-dependent and carbon intensive production.

FinTech

The issuance of digital euro is one of the most important developments in the area of Fintech. The euro will be offered in digital form. Further details regarding its use will be provided from the European Central Bank the following months.

Central bank digital currencies and their foundational principles and core features

On 9 October 2020, the Bank for International Settlements (BIS) published a report “Central bank digital currencies: foundational principles and core features”. For the central banks contributing to the report, the common motivation for exploring a general purpose central bank digital currency (CBDC) is its use as a means of payment.

The report highlights three key principles for a CBDC:

- Coexistence with cash and other types of money in a flexible and innovative payment system.
- Any introduction should support wider policy objectives and do no harm to monetary and financial stability.
- Features should promote innovation and efficiency.

ECB report on digital euro

On 12 October 2020 the European Central Bank proceeded to a public consultation further to the report of 2nd October 2020 on a digital euro.

The report examines the issuance of a central bank digital currency (CBDC) – the digital euro – from the perspective of the Eurosystem.

Such a digital euro would be a central bank liability offered in digital form for use by citizens and businesses for their retail payments. It would complement the current offering of cash and wholesale central bank deposits. The possible advantages of a digital euro and the rapid changes in the retail payment landscape imply that the Eurosystem needs to be equipped to issue it in the future.

A digital euro could support the Eurosystem’s objectives by providing citizens with access to a safe form of money in the fast-changing digital world.

Regulation, supervision and oversight of global stablecoin arrangements

On 13 October 2020 the Financial Stability Board published high-level recommendations for regulation, supervision and oversight of “global stablecoin” arrangements.

Pursuant to the report, global stablecoin arrangements are expected to adhere to all applicable regulatory standards and to address risks to financial stability before commencing operation, and to adapt to new regulatory requirements as necessary.

The so called “stablecoins” are a specific category of crypto-assets which have the potential to enhance the efficiency of the provision of financial services, however they may generate risks to financial stability, particularly if they are adopted at a significant scale.

EC’s new Cybersecurity Strategy

On 16 December 2020, the European Commission published a new EU cybersecurity strategy.

The new Cybersecurity Strategy allows the EU to step up leadership on international norms and standards in cyberspace, and to strengthen cooperation with partners around the world to promote a global, open, stable and secure cyberspace, grounded in the rule of law, human rights, fundamental freedoms and democratic values.

The EC is making the following proposals to address both cyber and physical resilience of critical entities and networks: (1) a Directive on measures for high common level of cybersecurity across the Union (revised NIS Directive or 'NIS 2'), and (2) a new Directive on the resilience of critical entities.

Key points of the strategy are:

- The launch of a network of security operations centres across the EU, powered by artificial intelligence (AI), which will constitute a real 'cybersecurity shield' for the EU, able to detect signs of a cyberattack early enough and to enable proactive action, before damage occurs.
- The creation of a new joint cyber unit, to strengthen cooperation between EU bodies and Member State authorities responsible for preventing, deterring and responding to cyber-attacks, including civilian, law enforcement, diplomatic and cyber defence communities.

Risk Management

The EBA published (i) a Report on significant risk transfer (SRT) in securitization transactions, and (ii) the final methodology for the 2021 EU-wide stress test.

FSB report on the use of supervisory and regulatory technology by authorities and regulated institutions

On 9 October, 2020 the Financial Stability Board (FSB) published a report on the use of supervisory (SupTech) and regulatory (RegTech) technology by FSB members and regulated institutions.

SupTech and RegTech tools could have important benefits for financial stability.

For authorities, the use of SupTech could improve oversight, surveillance and analytical capabilities, and generate real-time indicators of risk to support forward looking, judgement based, supervision and policymaking.

For regulated institutions, the use of RegTech could improve compliance outcomes, enhance risk management capabilities, and generate new insights into the business for improved decision-making.

For both authorities and regulated institutions, the efficiency and effectiveness gains, and possible improvement in quality arising from automation of previously manual processes, is a significant consideration.

More information in regard to the specific report you can find here.

EBA's 2021 Annual Work Programme

On 30 September 2020, the European Banking Authority (EBA) published its annual work programme for 2021, setting out its activities and tasks for the coming year and highlighting key strategic areas of work.

EBA's six strategic areas are:

1) Supporting the deployment of the risk reduction package and the implementation of effective resolution tools.
2) Reviewing and upgrading the EU-wide EBA stress testing framework.
3) Becoming an integrated EU data hub by leveraging on the enhanced technical capability for performing flexible and comprehensive analyses.
4) Contributing to the sound development of financial innovation and operational resilience in the financial sector.
5) Building the infrastructure in the EU to lead, coordinate and monitor anti-money laundering / countering the financing of terrorism supervision.
6) Providing the policies for factoring in and managing environmental, social and governance risks.

EBA's RTS on prudential treatment of software assets

On 14 October 2020 the European Banking Authority published final regulatory technical standards (RTS) regarding the prudential treatment of software assets.

The RTS aims to strengthen the existing regulatory environment by balancing the need of software maintenance for prudential purposes and the acknowledgement of relevance for software assets from business taking into account the increasing digitalization of institutional operations.

It is worth noting that EBA's RTS follow the public consultation focusing its Regulatory Technical Standards' draft recommendations on approaches affiliated with jurisdictions in international level, implications on institutions' accounting practices arising from a revision of their current prudential treatment of software, accounting treatments derived from IFRS and the national GAAP applied in the EU and treatments applied to EU insurance undertakings.

EBA's methodology for the 2021 EU-wide stress test

On 13 November 2020, the European Banking Authority (EBA) published the final methodology, draft templates and template guidance for the 2021 EU-wide stress test along with the key milestones of the exercise. The methodology and templates include some targeted changes compared to the postponed 2020 exercise, such as the recognition of FX effects for certain P&L items, and the treatment of moratoria and public guarantees in relation to the current Covid-19 crisis. The stress test exercise will be launched in January 2021 with the publication of the macroeconomic scenarios and the results published by 31 July 2021.

Key milestone dates of the 2021 EU-wide stress test exercise

- Launch of the exercise at the end of January 2021;
- First submission of results to the EBA at the beginning of April 2021;
- Second submission to the EBA in mid-May 2021;
- Third submission to the EBA at the end of June 2021
- Final submission to the EBA in mid-July 2021;
- Publication of results by end-July 2021.

Please find more information here.

ECB's working paper on bank contagion in general equilibrium

A working paper was published by the European Central Bank in regard to Bank contagion in general equilibrium.

The specific paper incorporates a complex network model into a state of the art stochastic general equilibrium framework with an active interbank market. Banks exchange funds one another generating a complex web of inter-banking relations. With the tools of network analysis it is possible to study how contagion spreads between banks and what is the probability and size of a cascade (a sequence of defaults) generated by a single initial episode. Those variables are a key component to understand systemic risk and to assess the stability of the banking system.

ESMA's Consultation Paper on ESMA fees for DRSP

The European Securities and Markets Authority (ESMA), on 20 November 2020, launched a public consultation on supervisory fees for data reporting services providers (DRSPs).

Following the ESAs Review, the authorization and supervision of data reporting services providers (DRSP) will be transferred from national competent authorities to ESMA starting January 2022.

The specific consultation paper aims to gather stakeholder views on fees for DRSPs that will be supervised by ESMA. The proposed fee framework for DRSPs draws on the existing fee frameworks for Trade Repositories and Securitisation Repositories which set out application as well as annual supervisory fees.

ESMA is proposing both application and authorisation fees, as well as an annual supervisory fee for DRSPs. It has also proposed a timeline for the payment of the fees.

EBA report on significant risk transfer in Securitisation under Articles 244(6) and 245(6) of the Capital Requirements Regulation

On 23 November 2020, the EBA publishes a report on significant risk transfer (SRT) in securitization transactions, which includes a set of detailed recommendations to the European Commission on the harmonization of practices applicable to the SRT assessment.

The EBA proposals aims to facilitate and speed up supervisory decision- making on the supervisory significant risk transfer (SRT) assessment without contesting the quality and thoroughness of the assessment subject to the current securitization framework.

The report focusses on three key subject areas set out by a Discussion Paper published by the EBA at the end of September 2017 on the SRT in securitization, focusing among other to:

- Structural features of securitization transactions: these refer to the treatment for SRT purposes of certain characteristics of both traditional and synthetic transactions that may be detrimental to complying with SRT requirements on a continuous basis and, thus, affect the "effectiveness" of the risk transfer.
- The SRT tests: these relate both to the interpretation of the quantitative thresholds and measures used by the first-loss and mezzanine tests and to the qualitative commensurateness test in general, for which the Capital Requirements Regulation (CRR) provides only high-level criteria.
- The process applied by supervisors to assess SRT.

EBA's assessment report on the use of moratoria and public guarantees across the EU Banking Sector

On 20 November 2020, EBA publishes an assessment report of the use of COVID-19 moratoria and public guarantees across the EU Banking Sector. In response to the need to address negative economic consequences of COVID-19 pandemic, the European Union (EU) and Member States have introduced a wide range of mitigating measures to support the real economy and the financial sector. As part of such measures, some Member States have introduced legislative moratoria on loan repayments granting the borrowers various forms of payment holidays on their existing loans.

The European Banking Authority (EBA) in the current preliminary assessment clarifies the implication of such payment moratoria on the application of prudential rules, including in relation to the application of rules on forbearance and the definition of default and non-performing exposures.

The report concludes that capital buffer accumulated by banks during last years along with the capital relief provided by regulators "should allow banks to withstand the potential credit risk losses derived from a sensitivity analysis based on the 2018 stress test", which could amount up to 3.8% of RWAs (risk weighted assets) under the more sever credit shock.

Following the metrics depicted above, EBA will be closely monitoring the evolution of moratoria and public guarantee schemes (PGSs) in the following quarters.

Covid-19 moratoria

On 2 December 2020, the EBA decided to reactivate its Guidelines on legislative and non-legislative moratoria. This reactivation will ensure that loans, which had previously not benefitted from payment moratoria, can now also benefit from them. The EBA recognises the exceptional circumstances of the second COVID-19 wave. The EBA revised Guidelines, which will apply until 31 March 2021.

With the continued unfolding of the COVID-19 pandemic, it is crucial that banks continue to provide lending to the real economy while recognising any solvency issues in order to ensure that problematic loans are well reflected in their balance sheets. Consequently, as part of the re-activation of its Guidelines on legislative and non-legislative moratoria, the EBA has introduced two new constraints to ensure that the support provided by moratoria is limited to bridging liquidity shortages triggered by the new lockdowns and that there are no operational restraints on the continued availability of credit.

- Only loans that are suspended, postponed or reduced under general payment moratoria not more than 9 months in total, including previously granted payment holidays, can benefit from the application of the Guidelines.
- Credit institutions are requested to document to their supervisor their plans for assessing that the exposures subject to general payment moratoria do not become unlikely to pay. This requirement will allow supervisors to take any appropriate action.

Covid-19 dividends and other distributions

The European Banking Authority (EBA), on 15 December 2020, has released a public statement that encourages banks to apply a conservative approach on dividends and other distributions in light of the COVID-19 pandemic.

In its 12 March statement, the EBA urged banks to follow conservative distribution policies and use capital for ensuring the continuous financing of the economy. Banks in the European Union have been able to continue supporting businesses and mostly remained with strong levels of capitalisation. However, given that the COVID-19 crisis and the uncertainty on its impact on the economy are likely to continue, with possible further deterioration of asset quality metrics over the next quarters, the EBA urges banks to refrain from distributing capital outside the banking system when deciding on dividends and other distribution policies, including share buybacks, unless extreme caution is applied.

Please find more information here.

The European Banking Authority (EBA), on 10 December 2020, published a Report on the impact of implementing the final Basel III reforms in the EU

The full Basel III implementation, in 2028, would result in an average increase of 15.4% on the current Tier 1 minimum required capital of EU banks. The results do not reflect the economic impact of the Covid-19 pandemic on participating banks as the reference date of this impact assessment is December 2019.

More information about the results you can find them here.

On 15 December 2020, the EBA published its updated ad-hoc impact study on the implementation of Basel III in the EU in response to the EU Commission's call for advice (CfA)

The study is based on a sample of 99 banks and has a reference date of December 2019. Under the full implementation of Basel III and conservative assumptions, the updated impact is meaningfully lower than previously estimated, using June 2018 data and a consistent sample. In addition, the Report presents some qualitative reflections on the potential interactions between different elements of Basel III framework and the estimated adverse impact of the COVID-19 crisis. The EBA reaffirms its policy recommendations put forward in its previous advice and supports the full implementation of the final Basel III standards in the EU, which will contribute to the credibility of the EU banking sector and ensure a well-functioning global banking market.

More information about the findings you can find them here.

EBA's annual Risk Assessment of the European Banking System

On 11 December 2020, the EBA published its annual Risk Assessment of the European banking system.

The report is accompanied by the publication of the 2020 EU-wide transparency exercise, which provides detailed information, in a comparable and accessible format, for 129 banks across 26 EEA / EU countries and for 6 banks from UK.

Despite the COVID-19 shock, banks have maintained solid capital and liquidity ratios and have increased their lending to the real economy. However, economic uncertainty persists, profitability is at record low levels, and there are several early signs for a deterioration in asset quality.

Please find more information here.

On 11 December 2020, the Single Resolution Board (SRB) published its standardised data set to ensure that the minimum needed data is available to support a robust valuation for bank resolution

The SRB approach to valuation relies on banks' ability to provide accurate and timely information in case of resolution. A standardised data set covering the minimum data needed for valuation will help banks have their management information systems ready to deliver.

As part of its annual resolvability assessment, the SRB will evaluate the capacity of banks to collect and provide this information on a timely basis to resolution authorities and/or valuers.

Following the public consultation, the SRB is publishing three documents:

- The SRB Valuation Data Set instructions document, developing the SRB Valuation Data Set and establishing clear expectations in relation to data needs.
- The explanatory note aiming to provide guidance to the banks regarding their MIS capabilities to produce information that is as up to date and complete as possible and of adequate quality to carry out a fair, prudent and realistic valuation.
- A feedback statement to the consultation that addresses the main comments received on the consultation and it is published alongside the final SRB Data Set for valuation.

Please find more information here.

The European Securities and Markets Authority (ESMA), on 15 December 2020, launched a compliance table in relation to MMF Stress Test Guidelines

A compliance table about which authorities comply or intend to comply with ESMA's Guidelines on stress test scenarios under the MMF Regulation.

The European Banking Authority (EBA), on 10 December 2020, published a final draft Regulatory Technical Standards (RTS) on how institutions are to calculate the own funds requirements for foreign-exchange and commodity risk stemming from banking book positions under the FRTB standardised and internal model approaches

The final draft standards specify the value that institutions are to use when computing the own funds requirements for market risk for banking book positions. In this respect, the standards require institutions to use the last available accounting value or the last available fair value for positions attracting foreign-exchange risk. In addition, institutions are not required to perform a daily re-valuation of banking book positions attracting foreign-exchange risk. However, they must reflect the changes in the position's foreign-exchange component on a monthly basis under the standardised approach and on a daily basis under the internal model approach. For positions attracting commodity risk, institutions are required to use the fair value as a basis of their calculations.

In addition, the final draft standards lay down a prudential treatment for the calculation of the own funds requirements for market risk of non-monetary items held at historical cost that may be impaired due to changes in the foreign-exchange rate. In this respect, the standards identify a specific methodology that institutions should use when capitalising the foreign-exchange risk stemming from those items under the standardised approach. Furthermore, the standards require institutions to model directly the risk of impairment due to changes in the relevant exchange rate in the case of an internal model approach being used.

EBA's Opinion on EC's amendments of the final draft RTS on internal ratings and capital calculations

The European Banking Authority (EBA), issued on 14 December 2020, an Opinion on the amendments proposed by the European Commission as regards the EBA final draft RTS specifying the assessment methodology competent authorities are to follow when assessing the compliance of credit institutions and investment firms with the requirements to use the Internal Ratings Based (IRB) approach laid down in the Capital Requirements Regulation (CRR).

The EBA has identified a number of substantive changes in the Commission's version of the RTS compared to the final draft RTS submitted in July 2016. The most important change is related to the flexibility for competent authorities to apply any other tests and verifications when assessing institutions' compliance with the IRB approach. The EBA is in particular concerned about the Commission's amendments in this regard, as this could potentially hampers supervisory efforts to ensure harmonized use of IRB models.

Other substantive changes identified by EBA relate to the assessment of the institutions' validation of internal models, approaches towards grade assignment and risk parameter estimation as well as any governance and procedural aspects required in the context of the IRB approach. In these areas, the EBA also notes that the amendments change the policy that was developed and agreed by the EBA.

As regards the Commissions' amendments that make it mandatory for third parties involved in model development to provide input into the validation, the EBA has now concerns. The amendments continue to ensure that institutions still comply with the principle of independence between model development and model validation.

Finally, the Opinion also highlights a number of editorial and structural changes that are needed to ensure consistency if taking on board the changes proposed by the Commission.

The EBA, on 16 December 2020, published a final draft RTS on the contractual recognition of stay powers

The technical standards provide further specification of essential elements to ensure the effectiveness of the resolution regime established by the Bank Recovery and Resolution Directive (BRRD). These standards are part of the EBA's major programme of work to implement the BRRD and address the problem of too-big-to-fail banks.

These technical standards aim to ensure the effective application of stay power. Where financial contracts are governed by the law of a third country, the BRRD requires these contracts to include a contractual recognition term by which the parties acknowledge that the contract may be subject to these stay powers and agrees to be bound by their effect.

The EBA launched, a consultation on RTS on the calculation of risk-weighted exposure amounts of collective investment undertakings (CIUs) in line with the Capital Requirements Regulation (CRR)

The proposed draft RTS, which will contribute to the calculation of own funds requirements for the exposures in the form of units or shares in CIUs under the Standardised Approach for credit risk, clarify the regulatory treatment for missing inputs when the underlying risk of derivatives is unknown and for the computation of the exposure value for counterparty credit risk. The consultation runs until 16 March 2021.

These proposed RTS clarify how the exposure amounts of CIUs, under the mandate-based approach (MBA), should be calculated, when one or more of the inputs required for such calculation are not available. Moreover, the draft RTS explain what is considered as insufficient information versus missing inputs, and clarifies whether market measures provide sufficient information for the application of the MBA for exposures to CIUs.

On 16 December 2020, the EBA published a final draft Regulatory Technical Standards (RTS) on the prudential treatment of investment firms

These final drafts RTS, which are part of the phase 1 mandates of the EBA roadmap on investment firms, will ensure a proportionate implementation of the new prudential framework for investment firms taking into account the different activities, sizes and complexity of investments firms.

With the entry into force of the Investment Firms Regulation (IFR) and Directive (IFD), most of the investment firms authorised under the Markets in Financial Instruments Directive (MiFID) will be subject to a new prudential regime, different and independent from the Capital Requirements Regulation (CRR) applicable today. With today's submission, the EBA is preparing for a smooth introduction of the IFR/IFD, which is due to be applicable by mid-2021.

The technical standards included in this package set out the main aspects of the new prudential regime in relation to the calculation of the regulatory capital requirements. They provide further technical clarifications on the methodologies to be applied by all types of investment firms, including investment advisors, portfolio managers, execution brokers, firms trading on own account and commodity dealers.

The European Banking Authority (EBA), on 17 December, published a final draft Regulatory Technical Standards (RTS) on capital requirements of non-modellable risks under the FRTB

The European Banking Authority (EBA) published today its final draft Regulatory Technical Standards (RTS) on the capitalisation of non-modellable risk factors (NMRFs) for institutions using the FRTB Internal Model Approach (IMA) implemented in EU as a reporting requirement. These draft RTS are a key deliverables in the EBA's work on implementing the FRTB in EU and part of its roadmap for the new market and counterparty credit risk approaches published on 27 June 2019.

These draft RTS lay down a specific methodology that institutions are to use for determining the own funds requirements related to non – modellable risk factors in the new market risk regime. The methodology is applicable to all kinds of risk factors and adjusts to different levels of NMRF data availability.

The European Banking Authority (EBA), on 17 December, launched a consultation to amend standards on benchmarking of internal models

The European Banking Authority (EBA) published a consultation paper proposing to amend the EU Commission's Implementing Regulation on the benchmarking of credit risk, market risk and IFRS9 models so as to include some new elements for the 2022 exercise. The EBA benchmarking exercise forms the basis for both supervisory assessment and horizontal analysis of internal models. It ensures consistent monitoring of the impact of the several different supervisory and regulatory measures aiming at the harmonising capital requirements in the EU.

For each of the three areas, the EBA is proposing to include the following new elements:

- for credit risk, additional information on the level of conservatism embedded in the IRB risk parameters;
- for market risk, new sensitivities related to the so-called sensitivities-based method, in line with the new FRTB framework; and for the IFRS9 exercise, updated templates with the collection of additional IFRS 9 parameters.

Capital Markets

The European Banking Authority (EBA) published in December its final draft Regulatory Technical Standards (RTS) on the contractual recognition of stay powers.

ESMA's report on the use of sanctions under AIFMD

ESMA is required to draw up an annual report on the application of administrative measures and imposition of penalties in the case of breaches of the provisions adopted in the implementation of Directive 2011/61/EU (AIFMD) in the different Member States pursuant to Article 48(3) AIFMD. The specific report contains information on the penalties and measures imposed by national competent authorities (NCAs) from 1 January 2018 to 31 December 2018 and from 1 January 2019 to 31 December 2019.

ESMA's Public Statement on European common enforcement priorities for 2020 annual financial reports

The European Securities and Markets Authority (ESMA) issues its annual Public Statement defining the European common enforcement priorities for 2020 annual financial reports of listed companies. ESMA, together with national enforcers, will pay particular attention to these areas when monitoring and assessing the application of the relevant requirements. In addition, enforcers will continue to focus on issues that are material for the individual issuers examined. Based on examinations performed, enforcers will take actions whenever material misstatements are identified and ESMA will report subsequently on their findings. In addition to these European priorities, enforcers might set additional national priorities focusing on other topics.

EBA's report on benchmarking of national insolvency frameworks across the European Union

On 7 January 2019, the European Banking Authority (EBA) received a Call for Advice from the Commission on Benchmarking of National Loan Enforcement Frameworks.

The European Banking Authority was asked to conduct an ad hoc data collection from a sample of more than 160 Banks, covering 27 EU Member States, and to analyze the obtained data, by presenting EU benchmarks on recovery outcomes regarding bank loans and by studying the characteristics of country-level loan enforcement procedures in terms of recovery rates and times to recovery.

The loans subject to examination are divided into 6 main asset classes as described below: corporate, small and medium-sized enterprises (SMEs), commercial real estate (CRE), residential real estate (RRE), retail-credit cards and retail- other consumer loans.

The report concludes that at present, there is significant variability across Member States in the effectiveness of national insolvency practices as measured by recovery rates, times of recovery and costs of recovery.

ESMA annual statistical report

The European Securities and Markets Authority published its first statistical report on European Union (EU) securities markets, with a focus on market monitoring, reference and transparency data and securities markets statistics.

The report focuses exclusively on MiFID II instruments that are publicly available for trading on EEA trading venues, regardless of the type of trading (on or off exchange) by utilizing FITRS (Financial Instruments Transparency System) and DVC (Double Volume Cap) Data statistics to provide a comprehensive overview of European equity and bond markets in 2019, including the number, characteristics, volumes traded and transparency data on the equity and bond instruments.

This means that private equity and debt are excluded from the scope, and that transactions taking place over the counter are included in this report in so far as the instruments are publicly available on at least one trading venue.

The report in question is consisted of three main sections, covering:

- Market monitoring – includes an analysis of structures and evolution of European securities markets, presenting in detail recent trends in equity and bond trading;
- Topical analyses – these focus on the methodologies and challenges related to the use of reference and transparency data, as well as a first look into the characteristics of liquid equity and bond instruments; and
- Securities markets statistics – these set out a full list of indicators and metrics developed and currently monitored by ESMA.

ESMA has released a public statement that clarifies the application of the European Union's trading obligation for derivatives (DTO) following the end of the UK's transition from the EU on 31 December 2020

The statement clarifies that the DTO will continue applying without changes after the end of the transition period. ESMA considers that the continued application of the DTO would not create risks to the stability of the financial system.

On 14th December 2020, the EBA issued an Opinion to the European Commission on the proposed amendments to the EBA final draft regulatory technical standards (RTS) on Internal Rating Based (IRB) assessment methodology

The EBA has identified a number of substantive changes in the Commission's version of the RTS compared to the final draft RTS submitted in July 2016. The most important are related to the flexibility for competent authorities to apply any other tests and verifications when assessing institutions' compliance with the IRB approach. The Opinion also highlights a number of editorial and structural changes that are needed to ensure consistency if taking on board the changes proposed by the Commission.

ECB prolongs support via targeted lending operations for banks that lend to the real economy

- Extension by an additional 12 months, to June 2022, of period of favourable interest rates for banks that lend to the real economy
- Three additional three-year operations in June, September and December 2021
- Borrowing allowance raised to 55% of eligible loans

You can find more about the specific announcement here.

On 16 December 2020 the Council of EU Ministers agreed package of amendments to European financial services legislation including targeted amendments to MiFID II (so called MiFID "quick fix")

The key changes to the MiFID II regime include:

- Investor protection and research
- Commodity derivatives
- Ancillary activity exemption

The amendments have to be formally approved by the European Parliament in a plenary vote, following which the text will be published in the EU Official Journal. Member States will have 12 months to transpose the revised provisions to their national legal frameworks.

Other areas of interest

Outsourcing is one of the specific aspects of institutions' governance arrangements and a way to get relatively easy access to new technologies and to achieve economies of scale. BoG adopted EBA Guidelines.

BoG adoption of EBA Guidelines on Outsourcing Arrangements

On 2 October 2020 the Bank of Greece has decided to adopt the EBA guidelines on outsourcing arrangements. The aim of the specific guidelines adopted is to establish a more harmonised framework for all financial institutions that are within the scope of the EBA's mandate, namely credit institutions and investment firms subject to the CRD, as well as payment and electronic money institutions. The guidelines set out specific provisions for these financial institutions' governance frameworks with regard to their outsourcing arrangements and the related supervisory expectations and processes.

The decision from the Bank of Greece you can find it here.

APPENDIX: GLOSSARY

AANA
Aggregate Average Notional Amount

AML/CFT
Anti-Money Laundering and Countering the Financing of Terrorism

AI
Artificial Intelligence

AISPs
Account Information Service Providers

AIFMD
Alternative Investment Funds Market Directive

BCBS
Basel Committee on Banking Supervision

CDD
Customer Due Diligence

DLT
Distributed Ledger Technology

EBA
European Banking Authority

EIOPA
European Insurance and Occupational Pensions Authority

ESAs
European Supervisory Authorities

ESG
Environmental, Social and Governance

FICC
Fixed Income Clearing Corporation

IOSCO
International Organization of Securities Commissions

IAS
International Accounting Standards

IFRS
International Financial Reporting Standards

IT
Information Technology

LIBOR
London Inter-Bank Offered Rate

NPEs
Non-Performing Exposures

P2B
Platform to Business

PISPs
Payment Initiation Services Providers

RTS
Regulatory Technical Standard

RegTech
Regulatory Technology

SFDR
EU Regulation on sustainability-related disclosures in the financial services sector

SFTR
Securities Financing Transactions Regulation

SFT
Securities Financing Transactions

SupTech
Supervisory Technology

OTC
Over-the-Counter

Grant Thornton

We are here to support you

Grant Thornton is one of the world's leading organisations of independent assurance, tax and advisory firms, with more than 58,000 people in 140 countries. These firms are here to make business more personal and build trust in to every result. Grant Thornton in Greece is a leading provider of audit, tax and advisory services, with 5 offices in Greece (Athens, Thessaloniki, Heraklion, Crete and Ioannina) and more than 750 people, we offer strong technical guidance and breadth of experience to ensure that clients receive a truly different experience.

Our approach is built on genuine interest for our clients, on understanding of the unique challenges they face and the commitment to their ambitions and strategy for growth. Our collaborative style also enables us to assemble teams with a broader perspective – working across service lines, industry teams and geographies to tailor our capabilities for our clients.

Our clients demonstrate a high level of satisfaction and loyalty, with an NPS (Net Promoter Score) of 74%, one of the highest among Grant Thornton member-firm network in 140 countries. The efficient structure and presence of Grant Thornton globally, coupled with a deep understanding of both local and global dynamics, bring Grant Thornton in Greece at the forefront of today's business landscape as one of the fastest-growing professional services firm in our country.

We are happy to assist with queries you may have and any other issue you would like to discuss with us. For more information contact our Financial Services Risk & Regulatory Team: **RiskandRegulatory@gr.gt.com**