

Financial Regulation: Weekly Update

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Highlights

1. FSB encourages the IFRS foundation to use TCFD's recommendations for climate-related disclosures
2. EBA publishes several standards on recovery and resolution
3. EBA proposes an appropriate methodology to calibrate O-SII buffer rates
4. EBA provides additional clarity on the implementation on COVID-19 policies
5. OJEU publishes a final rule on deduction of software assets

GLOBAL

■ FSB response to IFRS's foundation on consultation paper on sustainability reporting

[Supports](#) the recommended approach to initially focus on standards for climate-related financial disclosures and strongly encourages building on the work of the TCFD as the basis for those standards.

EUROPE

■ EBA publishes several technical standards on recovery and resolution

i) On impracticability of contractual recognition of [bail-in](#) powers of contracts governed by the law of a third country;
ii) on MREL [reporting](#), providing uniform templates, instructions and methodology for resolution authorities and iii) on the [estimation](#) of Pillar 2 and combined buffer requirement at the resolution group level for setting MREL.

■ EBA proposes appropriate methodology to calibrate O-SII buffer rates

The report includes the implementation of an [EU-wide floor methodology](#) without immediate consequences for the EU banking sector. It is a preparatory step to inform EU co-legislators in view of future legislative initiatives.

■ EBA provides additional clarity on the implementation of COVID-19 policies

It clarifies the [application](#) of guidelines on moratoria, reporting and disclosure and operational risk taxonomy. Also includes identification of COVID-19 triggered downturn period and treatment of public guarantees under A-IRB.

■ EBA updates reporting framework and technical standards on Pillar 3 disclosures

Update of the [reporting and disclosure](#) frameworks to the new CRR 2 requirements, following the adoption by the Commission of the ITS on supervisory reporting.

■ EBA publishes second report on proportionality on recovery and resolution planning

Application of [simplified](#) obligations for less significant banks has increased, as well as convergence in the identification of entities eligible for them, but divergences remain in the determination of reduced requirements.

■ **ESRB issues statement to extend recommendation on distribution restrictions**

Relevant authorities should request financial institutions to [refrain](#), until Sep 30, 2021, from making a dividend distribution, buy back ordinary shares and create an obligation to pay variable remuneration to material risk takers.

■ **ESMA, European NCAs and UK FCA issues four Memoranda of Understanding (MoU)**

With the aim of coordinating post-Brexit cross-border supervisory practices, those MoUs focus on: i) [supervisory cooperation](#) and information exchange; ii) supervision of [CRAs and TRs](#); iii) [central counterparties](#) established in the UK; and iv) ongoing compliance with recognition conditions by [central securities depositories](#) established in UK.

■ **ESMA publishes two reports on the Market Abuse Regulation (MAR)**

Reports provide details on: i) administrative and criminal [sanctions](#), showing an increase in EU market sanctions and ii) on the application of [accepted](#) market practices.

■ **ESMA consults on penalties for benchmark administrators and data reporting services providers**

Consultation on specific aspects of the procedural rules regarding penalties for [benchmark administrators](#) and [data reporting](#) services providers. Deadlines: Jan 23, 2021.

■ **ESMA updates guidance on waivers from pre-trade transparency and Q&A on EMIR**

i) It [covers](#) guidance related to requests for quote systems and waiver applications by trading venues. ii) [Q&A](#) on OTC requirements and reporting issues, including clarifications after Brexit transition period.

■ **ESMA issues public statement for TLTRO III transactions**

It aims to [promote](#) transparency in the IFRS financial statements of banks regarding accounting for the third series of the European Central Bank's Targeted Longer-Term Refinancing Operations (TLTRO III).

■ **ESMA withdraws the registration of several UK CRAs and Trade Repositories**

[Implies](#): i) UK credit ratings of the affected CRAs will need to be endorsed for EU use; and ii) UK-TRs could no longer be used for derivatives and SFTs reporting.

■ **EIOPA consults on the Own Risk Solvency Assessment (ORSA) in the context of COVID-19**

[Undertakings](#) are expected to take into account the uncertainty in the duration and final impact of the pandemic in their ORSA and consider multiple scenarios with several degrees of severity for the pandemic.

■ **EIOPA publishes financial stability report**

EIOPA [recommends](#) to maintain extreme caution and prudence in capital management. Also recommends that any dividend distribution not exceed thresholds of prudence.

■ **OJEU publish final rule on deduction of software assets**

Commission [delegated regulation](#) on the deduction of software assets from Common Equity tier 1 capital. Effective date: Dec 23, 2020.

SPAIN

■ **BdE holds Countercyclical Capital Buffer (CCyB) at 0 percent**

It has [communicated](#) its intention to maintain the CCyB at 0% during the first quarter of 2021 and not to increase it while the main economic and financial effects derived from the Covid-19 crisis have not been overcome.

UNITED KINGDOM

■ BoE publishes Bank Recovery and Resolution Directive II

Contains final [PRA policy](#) regarding amended contractual recognition of bail-in and amended stay in resolution. The policy statement becomes effective at the end of the transition period.

■ PRA publishes approach to reporting and disclosure requirements after Brexit

PRA's [expectations](#) for firms regarding EU-based references in reporting and disclosure requirements after Brexit.

UNITED STATES

■ Agencies propose requirement for computer security incident notification

Entities must [provide](#) an early warning of significant computer security incidents, and would require notification as soon as possible and no later than 36 hours. Deadline for comments: 90 days after publication in Federal Register.

■ FRB issues report on second round of bank stress test results

[Results](#) found that banks generally had strong levels of capital, but considerable economic uncertainty remained. Propose restrictions to ensure capital preservation, including suspending share repurchases and limiting dividends.

■ FRB holds Countercyclical Capital Buffer (CCyB) at 0 percent

It will [maintain](#) current CCyB level at 0 percent for private-sector credit exposures located in the US. If it is decided that it should be modified in the future, banks would have 12 months before the increase becomes effective.

■ CFTC staff extends temporary No-action relief from Trade Execution Requirement

[Exemptions](#) apply to: i) swaps meeting requirements under CFTC regulation and ii) swap that entered into by eligible affiliate counterparties and cleared. Effective date: 30 days after its publication in the Federal Register.

Recent publications of interest (in English and Spanish):

- [Press Article](#). *Procyclical financial regulation: What can be done?* October 2020.
- [Press Article](#). *Europe | One step closer to the Capital Markets Union*. October 2020.
- [Press Article](#). *The Banking Union in times of Covid (page 85)*. September 2020.
- [Press Article](#). *The Coronavirus: an unexpected ally of digitization*. June 2020.

Previous edition of our Weekly Financial Regulation Update in [English](#).

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