



Leibniz Institute for Financial Research SAFE
Sustainable Architecture for Finance in Europe (<https://safe-frankfurt.de/>)

SAFE Finance Blog

The SAFE Regulatory Radar in July 2020

07/31/2020

In July, the Capital Requirements Regulation were amended, through the so called CRR quick fix, and the European Central Bank as well as the European Securities and Markets Authority issued new guidelines

SAFE Regulatory Radar July 2020



At the end of each month, the SAFE Regulatory Radar highlights a selection of important news and developments on financial regulation at the national and EU level.

Banking Union: amendments to the EU banking rules to mitigate the economic impact of the COVID-19 outbreak

On 24 June 2020, the European Parliament and the Council adopted a Regulation (<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32020R0873&from=EN>), making targeted amendments to the Capital Requirements Regulation (CRR2 (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019R0876>)), the so called CRR quick fix. The new amendments aim to facilitate bank lending in the EU to mitigate severe economic consequences of the COVID-19 pandemic.

One of the changes defers the application of the new leverage ratio buffers for global systemically important institutions (G-SII) by one year to January 2023 in order to allow banks to increase the size of new loans. With the CRR quick fix also certain central bank exposures are excluded from the calculation of the leverage ratio, for example reserves or deposits held at central banks. It is subject to approval by the national competent authorities (NCA). Moreover, the transitional regime of the International Financial Reporting Standard 9 (IFRS 9) was extended by two years. It cushions the expected increase in loan loss provisions as a result of the requirement to account expected credit losses instead of incurred credit losses under IFRS 9 (International Financial Reporting Standards). Furthermore, the revised rules extend the preferential treatment granted under the CRR's (Capital Requirements Regulation) prudential backstop for non-performing exposures (NPEs) guaranteed by the public sector and provide a temporary preferential treatment of exposures to central governments and central banks of member states that are denominated in the currency of another member state. This treatment applies until 31 December 2024. Other changes extend the application of the SME and infrastructure supporting factor allowing a more favorable treatment of certain exposures to SMEs, exclude overshootings from the calculation of the back-testing and introduce a prudential filter for sovereign bonds.

As of 27 June 2020, the Regulation is directly applicable in all member states except of the revised leverage ratio offsetting mechanism that will apply from 28 June 2021.

Financial supervision: ECB guideline on the definition of default for less significant credit institutions

On 8 July 2020, the ECB (European Central Bank) issued a guidance (<https://www.bankingsupervision.europa.eu/press/pr/date/2020/html/ssm.pr200708~da1a8a9a9f.en.html>) on the definition of the materiality threshold for less significant credit institutions that are directly supervised by NCA's (national competent authorities). The materiality threshold refers to the point at which a debtor is considered to be in default on its loan. Under the Capital Requirements Regulation (CRR (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32013R0575>)), NCA's (national competent authorities) are required to determine this threshold for less significant banks. In detail, the guidance aligns the materiality threshold for less significant banks with the regulations (<https://eur-lex.europa.eu/eli/reg/2018/1845/oj>) for credit institution supervised under the Single Supervisory Mechanism (SSM).

NCA's (national competent authorities) must notify the EBA whether they comply or intend to comply with these non-binding guidelines no later than 31 December 2020.

Capital Markets Union: ESMA guidelines on disclosure requirements under the Prospectus Regulation

On 15 July 2020, European Securities and Markets Authority (ESMA) presented final guidelines (https://www.esma.europa.eu/sites/default/files/library/esma31-62-1426_final_report_on_guidelines_on_prospectus_disclosure_requirements.pdf) on disclosure requirements

under the Prospectus Regulation. The purpose of the Prospectus Regulation (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32017R1129>) is to provide a simple disclosure framework for eligible issuers in a standardized format. Making prospectuses more accessible to investors therefore enhances investor protection.

The guidelines replace the recommendations, which were adopted in 2005 and are in line with the regime under the Prospectus Regulation that applies since 21 July 2019. The guidelines should ensure that market participants have a uniform understanding of the relevant disclosure requirements as well as to support NCAs (national competent authorities) in their assessment of information in prospectuses.

The document provides guidance to the disclosure of financial and non-financial information in the prospectus, including pro forma information, working capital statements, capitalization and indebtedness, historical financial information, and other topics. ESMA (European Securities and Markets Authority) carried forward a new policy of aggregating several transactions potentially providing for more robust investor protection. ESMA (European Securities and Markets Authority) also provides more guidance about when it is appropriate to include the proceeds of an offering in the calculation of an issuer's working capital to eliminate any risk that investors will be misled.

Once translated into all official languages of the EU, ESMA (European Securities and Markets Authority) will promote the consistent application of these non-binding guidelines by NCAs (national competent authorities).

Current public consultations

- **European Commission:** Public consultation (<https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12461-Review-of-measures-on-taking-up-and-pursuit-of-the-insurance-and-reinsurance-business-Solvency-II-public-consultation>) on key elements of the prudential framework for insurance and reinsurance firms required by the Solvency II Directive. The deadline is Wednesday, 21 October 2020.
- **ECB:** Public consultation (<https://www.bankingsupervision.europa.eu/press/pr/date/2020/html/ssm.pr200701~3a15b9f8b1.en.html>) on a guide intended to clarify its supervisory approach to consolidation projects involving euro area banks. The deadline is Thursday, 1 October 2020.
- **ESMA:** Public consultation (<https://www.esma.europa.eu/press-news/esma-news/esma-consults-guidelines-calculation-positions-under-sftr>) on draft guidelines on the calculation of positions by trade repositories (TRs) under the Securities Financing Transactions Regulation (SFTR). The deadline is Tuesday September 2020.
- **International Organization of Securities Commissions (IOSCO):** Public consultation (<https://www.iosco.org/library/pubdocs/pdf/IOSCOPD658.pdf>) on the use of artificial intelligence and machine learning by market intermediaries and asset managers. The deadline is Monday, 26 October 2020.
- **Financial Stability Board (FSB):** Public consultation (<https://www.fsb.org/2020/06/fsb-evaluation-finds-too-big-to-fail-reforms-made-banks-more-resilient-and-resolvable-but-gaps-need-to-be-addressed/>) on the evaluation of too-big-to-fail (TBTf) reforms for systemically important banks. The deadline is Wednesday 30 September 2020.

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