Leibniz Institute for Financial Research SAFE

SAFE Finance Blog

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The SAFE Regulatory Radar in December

Amended framework for securitizations of non-performing loans, proposed adjustments for central counterparties following Brexit, and new guidance on climate-related and environmental risks

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 supervision: Basel Committee has amended its framework for securitizations of non-performing loans

On 26 November 2020, the Basel Committee on Banking Supervision (BCBS) published a technical amendment to the capital treatment of securitizations of non-performing loans (NPLs), which sets out prudent and risk sensitive capital requirements. Although BCBS has started its work on the technical amendment before the Covid-19 pandemic, the recent observations have prompted a need to address a potential risk-weight miscalibration soon.

The key point of the amendment is the introduction of a 100 per cent risk weight floor for exposures to securitizations of NPLs, excluding positions that have been risk-weighted by an external ratings-based model. Under the external ratings-based approach, risk weights calculations are based on external credit assessments or inferred ratings, seniority, and maturity of a securitization position. In contrary, the internal ratings-based approach assigns risk weights according to own rating procedures and individually estimated parameters. Furthermore, the amendment removed the option to use foundation internal risk-based parameters as inputs for the internal ratings-based approach. Finally, an explicit definition of securitizations of NPLs as well as some rules for the senior tranches of securitizations of NPLs were introduced.

These changes should be implemented by the BCBS member jurisdictions by no later than 1 January 2023.

Central counterparties: ESAs propose amendments to the EMIR implementation timelines and introduce novations to EU counterparties after Brexit

On 23 November 2020, the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA) and the European Securities and Markets Authority (ESMA) – together the ESAs – presented the joint draft regulatory technical standards (RTS) proposing to amend the European Commission Delegated Regulation on the risk mitigation techniques for over-the-counter (OTC) derivatives not cleared by a central counterparty (CCP) under the European Market Infrastructure Regulation (EMIR).

This Delegated Regulation on bilateral margining foresees a range of implementation timelines. To avoid undue costs for EU counterparties and facilitate the implementation of the regulatory framework for bilateral margins, the draft proposes to extend the temporary regime that currently remains valid until 21 December 2020 for 18 months for intragroup transactions and for three years for single-stock equity options or index options (equity options).

After Brexit and the end of the transitional period, counterparties established in the UK will have to meet the requirements of national regimes of the EU countries and need to be authorized for performing operations. To facilitate the transition, the RTS allows UK counterparties to be exchanged with EU counterparties without triggering the bilateral margin and clearing obligation requirements. This provision aims to ensure a level playing field between EU counterparties and to preserve the regulatory and economic conditions under which the contracts were originally agreed.

The RTS were sent to the European Commission for endorsement in the form of a Delegated Regulation that will be binding in all member states.

Sustainable finance: ECB's guidance on climate-related and environmental risks for banks

On 27 November 2020, the European Central Bank (ECB) presented its final guide on climate-related and environmental risks that was developed jointly with the national competent authorities (NCAs) of the member states.

The guide outlines the ECB's supervisory expectations for climate-related and environmental risks in the short to medium term (three to five years) as well as in long-term (more than five years). It sets out how banks should manage such risks in a prudential manner and gives advice on transparent disclosures practices in accordance with applicable legislation. In detail, the guidance provides that institutions must consider climate-related and environmental risks when formulating and implementing their business strategy as well as governance and risk management frameworks.

This non-binding guidance was prepared for significant institutions supervised by the ECB but may be also applied to less significant institutions.

In terms of next steps, the ECB is going to propose banks to carry out self-assessments and to develop action plans in accordance with their results in early 2021. After benchmarking the self-assessments, the ECB will follow up with a full supervisory review of banks' practices and continue to develop its supervisory approach in 2022.

Current public consultations

- **ESMA**: public **consultation** on fees for data reporting service providers (DRSP). The deadline is Monday, 4 January 2021.
- **ESMA**: public **consultation** on DRSP criteria for derogation. The deadline is Monday, 4 January 2021.
- **European Central Bank (ECB)**: public **consultation** on the revision of the ECB Regulation on oversight requirements for systemically important payment systems and two implementing ECB Decisions. The deadline is Friday, 8 January 2021.
- **ECB**: public **consultation** on euro risk-free rates on EURIBOR fallback trigger events. The deadline is Friday, 15 January 2021.
- **The European Insurance and Occupational Pensions Authority** (EIOPA): public **consultation** seeking stakeholder input on proposals for technical advice to the European Commission on delegated acts relating to the criteria to identify those authorised reporting mechanisms (ARMs) and approved publication arrangements (APAs). The deadline is Monday, 4 January 2021.
- **The International Organisation of Securities Commissions** (**IOSCO**): public **consultation** on market data in the secondary equity markets. The deadline is Friday, 26 February 2021.

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