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Sustainable Architecture for Finance in Europe (<https://safe-frankfurt.de/>)

## SAFE Finance Blog

### The SAFE Regulatory Radar in May

06/03/2020

Regulatory amendments in response to the COVID-19 and new EBA guidelines: a selection of financial regulatory developments from last month



*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.*

## Shifted deadlines for implementation requirements and reporting obligations due to the COVID-19 pandemic

In response to the COVID-19 outbreak in 2020, the European supervisors have reviewed the application of some requirements and extended several deadlines.

On 28 April 2020, the European Commission proposed some targeted amendments (<https://ec.europa.eu/transparency/regdoc/rep/1/2020/EN/COM-2020-310-F1-EN-MAIN-PART-1.PDF>) to the Capital Requirements Regulation (CRR (<https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1590336351934&uri=CELEX:32013R0575>)) in response to the COVID-19 pandemic.

First, the proposal foresees to extend the favorable treatment of publicly guaranteed non-performing loans (NPLs). NPLs that were guaranteed as part of fiscal responses to mitigate the negative economic consequences of COVID 19 should be included.

Second, the Commission proposed the extension of the current transitional arrangements in the CRR (Capital Requirements Regulation) by two years to mitigate the impact of new IFRS 9 ([https://eur-lex.europa.eu/legal-content/EN/TXT/?toc=OJ:L:2016:323:TOC&uri=uriserv:OJ.L\\_.2016.323.01.0001.01.ENG](https://eur-lex.europa.eu/legal-content/EN/TXT/?toc=OJ:L:2016:323:TOC&uri=uriserv:OJ.L_.2016.323.01.0001.01.ENG)) provisions on regulatory capital. In combination with the current crisis, the application of IFRS 9 resulted in a steep increase in required Expected Credit Loss (ECL) provisions by banks, which in turn lead to erosion of banks' capital and lending ability.

Third, the date of application of new leverage ratio buffer requirements on global systemically important institutions (G-SIIs) would be deferred by one year to 1 January 2023.

The two latter changes follow the revised implementation timeline by the Basel Committee and are expected to be adopted by the EU Parliament and Council in June 2020.

Further, on 4 May 2020, the European Supervisory Authorities (ESAs) presented a joint draft Regulatory Technical Standards (<https://www.esma.europa.eu/press-news/esma-news/joint-rtts-amendments-bilateral-margin-requirements-under-emir-in-response-covid>) (RTS). It amends the Delegated Regulation (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32019R0564>) on the risk mitigation techniques for non-centrally cleared over-the-counter derivatives, under the European Markets Infrastructure Regulation (EMIR (<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32012R0648>)), to defer the two implementation phases of the bilateral margining requirements for one year.

Alongside, the European Securities and Markets Authority (ESMA) acknowledges the difficulties by issuers in preparing financial reports in the time of the COVID-19 pandemic. It has recommended ([https://www.esma.europa.eu/sites/default/files/library/esma31-67-742\\_public\\_statement\\_on\\_publication\\_deadlines\\_under\\_the\\_td.pdf](https://www.esma.europa.eu/sites/default/files/library/esma31-67-742_public_statement_on_publication_deadlines_under_the_td.pdf)) National Competent Authorities (NCAs) to prolong the statutory deadline for the publication of financial reports, including annual reports. ESMA (European Securities and Markets Authority) and NCA (National Competent Authorities) s will re-assess the need to extend the forbearance period further, if necessary.

In addition, ESMA (European Securities and Markets Authority) has delayed the application of the tick size regime to systematic internalizers (SIs) under the Markets in Financial Instruments Regulation (MiFIR (<https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1582188030883&uri=CELEX:32014R0600>)). The tick size regime requires trading venues to adopt minimum tick sizes to equity and certain equity-like instruments.

### Capital Markets Union: EBA presents guidelines on benchmarking of internal approaches, determination of the weighted average maturity, and credit risk mitigation

On 4 and 6 May 2020, the European Banking Authority (EBA) published three guidelines to implement uniform requirements under the Capital Requirements Directive (CRD (<https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1590336318514&uri=CELEX:32013R0575>)) and the CRR (Capital Requirements

Regulation) (<https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1590336351934&uri=CELEX:32013R0575>)framework.

First, the EBA (European Banking Authority) updated its implementing technical standards (<https://eba.europa.eu/its-package-2021-benchmarking-exercise>) (ITS) for the 2021 benchmarking exercise of internal approaches. The 2021 exercise focuses on the quality of parameters and modelling choices, in particular, on the probability of default (PD) parameter, an additional IFRS 9 parameter. The main changes cover the integration of the sub-set of templates dedicated to the benchmarking of the international financial reporting standards (IFRS 9 ([https://eur-lex.europa.eu/legal-content/EN/TXT/?toc=OJ:L:2016:323:TOC&uri=uriserv:OJ.L\\_.2016.323.01.0001.01.ENG](https://eur-lex.europa.eu/legal-content/EN/TXT/?toc=OJ:L:2016:323:TOC&uri=uriserv:OJ.L_.2016.323.01.0001.01.ENG))).

Second, the EBA (European Banking Authority) has presented its final Guidelines ([https://eba.europa.eu/sites/default/documents/files/document\\_library/Publications/Guidelines/2020/Guidelines%20on%20the%20determination%20of%20the%20weighted%20average%20maturity%20\(WAM\)%20of%20contractual%20payments%20due%20under%20the%20tranche%20of%20a%20securitization%20transaction%20that%20will%20be%20applicable%20from%201%20September%202020.pdf](https://eba.europa.eu/sites/default/documents/files/document_library/Publications/Guidelines/2020/Guidelines%20on%20the%20determination%20of%20the%20weighted%20average%20maturity%20(WAM)%20of%20contractual%20payments%20due%20under%20the%20tranche%20of%20a%20securitization%20transaction%20that%20will%20be%20applicable%20from%201%20September%202020.pdf)) on the determination of the weighted average maturity (WAM) of contractual payments due under the tranche of a securitization transaction that will be applicable from 1 September 2020. WAM (weighted average maturity) is one of two alternative approaches to determine the maturity of the tranche that the institutions have to calculate for the securitization positions.

Third, the EBA (European Banking Authority) published its final Guidelines ([https://eba.europa.eu/sites/default/documents/files/document\\_library/Publications/Guidelines/2020/Guidelines%20on%20credit%20risk%20mitigation%20\(CRM\)%20in%20the%20context%20of%20the%20advanced%20internal%20ratings-based%20\(A-IRB\)%20approach.pdf](https://eba.europa.eu/sites/default/documents/files/document_library/Publications/Guidelines/2020/Guidelines%20on%20credit%20risk%20mitigation%20(CRM)%20in%20the%20context%20of%20the%20advanced%20internal%20ratings-based%20(A-IRB)%20approach.pdf)) on credit risk mitigation (CRM) in the context of the advanced internal ratings-based (A-IRB) approach. The document seeks to eliminate the implementation complexities of the current CRR (Capital Requirements Regulation) framework caused by different supervisory practices and bank-specific choices. The final implementation of these Guidelines is scheduled by 1 January 2022.

## Current public consultations

- **Financial Stability Board:** Public consultation (<https://www.fsb.org/2020/05/guidance-on-financial-resources-to-support-ccp-resolution-and-on-the-treatment-of-ccp-equity-in-resolution-consultative-document/>) on guidance on financial resources to support central counterparty (CCP) resolution and on the treatment of CCP equity in resolution. The deadline is Friday, 31 July 2020.
- **European Supervisory Authorities:** Public consultation (<https://esas-joint-committee.europa.eu/Pages/News/ESAs-consult-on-ESG-disclosure-rules.aspx>) seeking input on their proposed regulatory technical standards (RTS) on environmental, social and governance (ESG) disclosure for financial market participants, advisers and products. The deadline is Tuesday, 1 September 2020.
- **ESMA:** Public consultation ([https://www.esma.europa.eu/sites/default/files/library/esma70-156-2061\\_mifid\\_ii\\_consultation\\_paper\\_on\\_sme\\_gms\\_under\\_mifid\\_ii\\_and\\_mar.pdf](https://www.esma.europa.eu/sites/default/files/library/esma70-156-2061_mifid_ii_consultation_paper_on_sme_gms_under_mifid_ii_and_mar.pdf)) on the functioning of the small and medium-sized enterprises (SME) Growth Market regime in the European Union and on two draft technical standards, introduced by the amendments to the Market Abuse Regulation (MAR) for the promotion of the use of SME Growth Markets. The deadline is Wednesday, 15 July 2020.
- **ESMA:** Public consultation ([https://www.esma.europa.eu/sites/default/files/library/esma70-156-1464\\_consultation\\_paper\\_benchmarks\\_rts.pdf](https://www.esma.europa.eu/sites/default/files/library/esma70-156-1464_consultation_paper_benchmarks_rts.pdf)) on draft regulatory technical standards (RTS) under the Benchmarks Regulation (BMR). The deadline is Monday, 8 June 2020.
- **European Banking Authority:** Public consultation (<https://eba.europa.eu/eba-consults-technical-standards-contractual-recognition-stay-powers-under-brrd>) on draft regulatory technical standards (RTS) for contractual recognition of stay powers laid down in the Bank Recovery and Resolution Directive (BRRD). The deadline is Saturday, 15 August 2020.

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Keywords: Financial Markets ([https://safe-frankfurt.de/news-latest/safe-finance-blog/search-result-blog.html?](https://safe-frankfurt.de/news-latest/safe-finance-blog/search-result-blog.html?tx_news_pi1%5BoverwriteDemand%5D%5Bcategories%5D=181&cHash=84faeb163d529c1d1097a1382efc4cf)

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