



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

SAFE Finance Blog

The SAFE Regulatory Radar in September 2020

09/30/2020

Extended implementation deadlines to mitigate the impact of the COVID-19 crisis, new rules for central counterparty colleges, and FSB evaluation of "too big to fail" reforms for systemically important banks

SAFE Regulatory Radar September 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.

Capital Markets Union: Shifted implementation deadlines for settlement discipline and securities

Capital markets union: United implementation deadlines for settlement discipline and securities financing transactions due to the COVID-19 pandemic

In light of the COVID-19 crisis, the European Commission and the Financial Stability Board (FSB) have extended several implementation deadlines.

New regulatory technical standards (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32018R1229>) on settlement discipline on Central Securities Depositories Regulation (CSDR (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014R0909>)) were initially due to come into force on 13 September 2020. However, on 24 August 2020, the EU Official Journal published a Commission Delegated Regulation (<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32020R1212&from=EN>) postponing the implementation date until 1 February 2021.

The standards on settlement discipline contain measures to prevent and address settlement fails, including rules for the trade allocation and confirmation process, mandatory buy-ins as well as monitoring and reporting of settlement fails. Anticipating significant IT system changes and adjustments to legal arrangements, on 26 August 2020, the European Securities and Markets Authority (ESMA) has further proposed an additional one-year postponement of the implementation date to 1 February 2022. As a next step, the proposal to additionally delay the implementation of the standards will be considered by the European Commission.

On 7 September 2020, the Financial Stability Board (FSB) reviewed the implementation timelines for minimum haircut standards (<https://www.fsb.org/2020/09/regulatory-framework-for-haircuts-on-non-centrally-cleared-securities-financing-transactions-5/>) for non-centrally cleared securities financing transactions (SFTs), following the deferral (<https://www.bis.org/press/p200327.htm>) of the implementation of the Basel III framework by one year to January 2023. This extension aims to eliminate operational burdens on market participants and authorities, and thereby assist them in focusing on responding to the Corona crisis. The updated implementation date for bank-to-non-bank transactions is January 2023; for non-bank-to-non-bank transactions January 2025.

Central counterparties: New standards for central counterparty colleges under EMIR

On 1 September 2020, the European Commission adopted a Delegated Regulation (<https://ec.europa.eu/transparency/regdoc/rep/3/2020/EN/C-2020-5888-F1-EN-MAIN-PART-1.PDF>) containing draft regulatory technical standards (RTS) for central counterparty (CCP) colleges following the revisions to European Market Infrastructure Regulation (EMIR) (known as "EMIR 2.2 (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32019R2099>)"). Under EMIR (<https://eur-lex.europa.eu/legal-content/DE/TXT/?uri=CELEX%3A32012R0648>) (European Market Infrastructure Regulation), colleges are supervisory bodies consisting of regulators responsible for the supervision of a given CCP (central counterparty). The regulation applies directly to all member states and supplements EMIR (European Market Infrastructure Regulation) with regards to changes to the composition, functioning, and management of colleges for central counterparties.

In detail, the RTS (regulatory technical standards) specify the governing process. Accordingly, the competent authorities of lesser clearing members and central banks of EU currencies, other than those deemed "most relevant", may submit an application for membership of a college to the CCP (central counterparty)'s competent authority. Other provisions cover requirements for confidential information, setting the agenda of college meetings, and rights and obligations of college members.

The amendments relate only to competent authorities and impose no additional obligations on market participants.

Banking Resolution: FSB examined TBTF reforms and developed a resolution reform index

On 30 September 2020, the FSB (Financial Stability Board) closed the consultation period on the evaluation (<https://www.fsb.org/wp-content/uploads/P280620-1.pdf>) of the effects of too-big-to-fail (TBTF) reforms for systemically important banks. The report was conducted by a working group consisting of FSB (Financial

Stability Board) member institutions, including the Bundesbank, and international organizations.

The authors of the report have concluded that TBTF (too big too fail) reforms have made banks more resilient and resolvable. General results of the report show that systemically important banks are better capitalized and have built up significant loss-absorbing capacity. Many FSB (Financial Stability Board) jurisdictions have introduced comprehensive bank resolution regimes but some obstacles remain. One of the highlights of the report is a resolution reform index (RRI) that illustrates the progress made by FSB (Financial Stability Board) jurisdictions in adopting bank resolution reforms, capturing legislative reforms as well as policy guidance. The RRI (resolution reform index) will be updated on a regular basis and measures the progress on a scale between zero (not implemented) to one (fully implemented). The index and its sub-indices reveal “strong overall progress in implementing resolution frameworks since 2010”. However, the progress varies significantly across jurisdictions and operationalizing the resolution process – including loss allocation – is less developed.

The detailed graphics showing the evolution of the RRI (resolution reform index) and its sub-indices over time and by jurisdiction are available in the technical appendix to the report. The final report reflecting the collected feedback is expected by early 2021.

Current public consultations

- **European Supervisory Authorities (EBA, EIOPA and ESMA - ESAs): Public consultation** (<https://ec.europa.eu/eusurvey/runner/ESGtemplatesSFDR>) on the presentational aspects of product templates on sustainability-related disclosures in the financial services (SFDR). The deadline is Friday, 16 October 2020.
- **European Banking Authority (EBA): Public consultation** (<https://ec.europa.eu/eusurvey/runner/Pillar-3-disclosures-on-ESG-risks>) on credit institutions’ disclosure of information related to ESG risks under Article 449a CRR. The deadline is Friday, 16 October 2020.
- **EBA: Public consultation** (<https://eba.europa.eu/calendar/eba-launches-consultation-revise-its-guidelines-internal-governance>) on the guidelines on internal governance. The deadline is Saturday, 31 October 2020.

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