

## SAFE Finance Blog

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### The SAFE Regulatory Radar in January

Ongoing activities on the EU framework on selling NPLs, ECB's supervisory approach to consolidation in the banking sector, and new reporting standards under the EMIR REFIT



**A** t 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: New regulation on selling NPLs to third parties

On 14 January 2021, the Committee on Economic and Monetary Affairs (ECON) of the European Parliament voted on a [legislative proposal](#) regulating the selling of non-performing loans (NPLs) from banks to secondary buyers.

The proposal aims to strengthen the Banking Union by reducing risks in the banking system and enabling bank lending while protecting borrowers' rights.

First, the draft regulation facilitates the use of accelerated extrajudicial enforcement procedure for collateral (AECE) to help banks to better manage NPLs. The parties would be allowed to use this out-of-court procedure when both lender and borrower agreed upon it in advance. Second, to further develop secondary markets for NPLs, the proposal simplifies the rules for credit servicing by third parties and the transfer of credits. Third, the legislative act fosters the harmonized supervision across the EU. It establishes common standards for national authorities and provides guidance on a set-up of national asset management companies (AMCs).

The latest amendments to the draft regulation proposed by the European Parliament seek to increase the level of protection for borrowers with instruments as partial refinancing of a credit agreement, modification of terms of the agreement, and extension of the term of the loan. Other amendments cover an authorization process for credit servicers as well as their rights and obligations. Notably, the proposed provisions go in line with the recently published European Commission's [action plan on NPLs](#) providing policy advice regarding the Covid-19 pandemic response supporting measures for bank lending. Besides, several policy solutions for NPLs treatment were evaluated in a recent [SAFE White Paper](#).

As a next step, ECON will start negotiating sessions with the Council and the Commission to consider the adoption of the draft law.

#### Financial supervision: ECB presents guide on bank consolidation projects

On 12 January 2021, the European Central Bank (ECB) published a [final guide](#) on its supervisory approach to sustainable consolidation in the banking sector. With this guide, the ECB clarifies the principles of the prudential approach it follows when determining whether a credit institution provides appropriate mechanisms to safeguard the sound management and coverage of its risks resulting from a consolidation.

As one key point, the ECB clarifies that there is no intention to penalize credible integration plans by setting higher Pillar 2 capital requirements. Furthermore, the ECB expects that potential profits from goodwill will not be distributed to the shareholders of the combined entity without a sustainable business model. In addition, the ECB will accept the temporary use of internal models for calculation of capital requirements. Apart from the overall approach to the supervisory assessment, the guide also includes the ECB's supervisory expectations and the application of the framework to consolidation transactions involving less significant institutions.

The ECB recommends that credit institutions planning consolidation inform the competent authorities at an early stage. This non-binding act aims to strengthen transparency by making supervisory activities more predictable and to support banks when shaping prudentially sustainable business models.

#### Supervisory reporting: ESMA updates EMIR REFIT

On 17 December 2020, the European Securities and Markets Authority (ESMA) published regulatory technical standards (RTS) on reporting, data quality, data access and registration of trade repositories (TRs) to facilitate a smooth transition to the revised reporting rules following the amendments to European Markets Infrastructure Regulation (EMIR REFIT). The RTS align the reporting rules with international standards, in particular with the global guidance developed by the International Organization of Securities Commissions (IOSCO) and the Committee on Payments and Market Infrastructures (CPMI). To enhance data quality and consistency, ESMA introduced a harmonized Extensible Mark-up Language (XML) schema for reporting from TR counterparties. The RTS also provide clarifies the registration of TRs and include a specific provision to extend the registration from the Securities Financing Transactions Regulation (SFTR) to EMIR. Finally, the RTS lay down the terms and conditions of data access by the authorities. The RTS were submitted to the European Commission for endorsement and will be applicable after the implementation period of 18 months.

#### Current Public consultations

- **European Commission:** public consultations on draft equivalence decisions for [Australia](#), [Brazil](#), [Canada](#), [Hong Kong](#), [Singapore](#) and [the US](#) concerning risk management requirements for transactions in non-cleared OTC derivatives under EMIR. The deadline is Wednesday, 17 February 2021.
- **European Commission:** public consultation on the establishment of a European single access point for financial and non-financial information publicly disclosed by companies. The deadline is Wednesday, 3 March 2021.
- **EBA:** public consultation setting out proposals for draft Implementing Technical Standards (ITS) amending the European Commission's Implementing Regulation on the benchmarking of credit risk, market risk and IFRS9 models. The deadline is Monday, 15 February 2021.
- **EBA:** public consultation concerning draft guidelines on internal governance under the Investment Firm Directive (IFD). The deadline is Wednesday, 17 March 2021.
- **EBA:** public consultation on draft guidelines on the monitoring of the threshold and other procedural aspects on the establishment of intermediate EU parent undertakings as laid down in the CRD IV. The deadline is Monday, 15 March 2021.
- **ESMA:** public consultation on algorithmic trading. The deadline for comments on the consultation paper is Friday, 12 March 2021.

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