

## The SAFE Regulatory Radar in September

Delegated Regulation establishing rules for retail investment products, revised guidance on the stress tests conducted by national deposit guarantee schemes, and new guidelines on dealing with the breaches of the large exposure limits



**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.*

### Investment products: New rules under the PRIIPs Regulation

On 7 September 2021, the European Commission adopted a [Delegated Regulation](#) amending the regulatory technical standards (RTS) on key information documents (KID) for packaged retail and insurance-based investment products (PRIIPs). The [PRIIPs KID](#) is a pre-contractual disclosure document that summarizes the key elements of investment products. The Delegated Regulation strives to simplify the rules for retail investment products and to increase the transparency of the disclosed information for investors.

In detail, the Delegated Regulation lays down new methodologies for the calculation of appropriate performance scenarios and their presentation to avoid the investors' unrealistic potential return expectations. The regulation also sets out revised summary cost indicators and modifies the calculation of transaction costs to address practical difficulties arising when applying the existing rules for certain types of underlying investments.

Under the current regulation, fund managers must also prepare the "key investor information document" (KIID) for certain types of Undertakings for the Collective Investment in Transferable Securities (UCITS), retail alternative funds, and insurance-based investment products. Both key information documents – [KID](#) and [KIID](#) – entail the description of essential features of the fund. However, it may be confusing for investors when they receive both types of retail investment information sheets for the same product. To address this issue, the regulation specifies that in case a [KID](#) is already provided, the requirements on the old [KIID](#) are automatically satisfied. Moreover, it allows certain [PRIIPs](#) manufacturers to continue using the old format until 30 June 2022.

The regulation was submitted to the European Parliament and the Council. After formal adoption, it will be binding and directly applicable in all Member States.

### Stress tests: Updated guidelines on Deposit Guarantee Schemes

On 15 September 2021, the European Banking Authority (EBA) published its [Revised Guidelines](#) on the stress testing of the national Deposit Guarantee Schemes (DGSs). The changes apply from the same day and are aimed to enhance the harmonized application of the [Deposit Guarantee Schemes Directive](#) (DGSD) and to ensure comparability of stress test results. Moreover, the Revised Guidelines require [DGSs](#) to stress test their ability not only to reimburse depositors but also to have timely access to all their ex-ante and ex-post funding resources. The more comprehensive stress-testing framework of the national [DGSs](#) should strengthen depositors' confidence. [DGSs](#) play an important role for investor protection and prevention of bank runs, ensuring an adequate and timely response to distress in the financial system. The [DGSs](#) are [funded](#) entirely by banks and cover deposits of up to 100,000 euros per credit institution.

Under the [DGSD](#), national [DGSs](#) must perform stress tests of their systems at least every three years. Stress tests are necessary to evaluate whether the operational and funding capabilities of the [DGSs](#) are sufficient to secure deposit protection in case of a bank failure.

These revised non-binding guidelines specify the methodological principles and extend the scope of the [DGS](#) stress testing. For instance, the guidelines state that the [DGSs](#) must stress test their ability to perform all the interventions foreseen by their legal mandates, and to access all their funding sources, including extraordinary ex-post contributions and alternative funding sources. Moreover, under the revised rules, stress tests must include scenarios with various unforeseen shocks to the economy, such as a pandemic, strikes, or IT disruptions.

## Large exposure limits: Guidance to assess exceeds

On 15 September, the [EBA](#) published its final [guidelines](#) on the assessment criteria for exceptional cases of breaches of the large exposure limits, reporting to competent authorities, and measures for timely return to compliance. Under the [Capital Requirements Regulation \(CRR\)](#), in the exceptional case that an institution exceeds the large exposure limits, the institution must report the value of the exposure without delay to the national competent authority (NCA), which may allow the institution to exceed the limit during a period determined on a case-by-case basis. The guidelines are aimed to establish a single approach for [NCAs](#) in their assessment.

First, the guidelines provide the criteria to determine the exceptional cases. It includes the frequency and predictability of breaches as well as reasons beyond the control of the institution that led to the inability to prevent the breach. Second, the [EBA](#) sets out what information must be provided in case of a breach. Apart from the amount of the excess, institutions must report the magnitude of the breach in relation to Tier 1 capital, remedial actions already implemented or planned, and detailed explanation of the reasons for the breach. Third, the guidelines also specify criteria to determine the appropriate time to return to compliance, along with the potential limits and measures.

These non-binding guidelines will apply from 01 January 2022. The [NCAs](#) have to inform the [EBA](#) if they comply with the guidelines or not within two months.

### Current public consultations:

- **European Commission:** public [consultation](#) on unlawful extra-territorial sanctions and amendments of the Blocking Statute. The deadline is Thursday, 04 November 2021.
- **European Commission:** public [consultation](#) on the new rules for the private sector for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing. The deadline is Thursday, 18 November 2021.
- **European Commission:** public [consultation](#) on information accompanying transfers of funds and certain crypto-assets. The deadline is Thursday, 18 November 2021.
- **European Commission:** public [consultation](#) on establishing the Authority for Anti-Money Laundering and Countering the Financing of Terrorism. The deadline is Thursday, 18 November 2021.
- **European Commission:** public [consultation](#) on the new national mechanisms for prevention of the use of the financial system for the purposes of money laundering or terrorist financing. The deadline is Thursday, 18 November 2021.

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