

The SAFE Regulatory Radar in October

Newly adopted EU label for green bonds, recommendations for incorporating environmental and social risks into capital requirements of credit institutions, and new standards for crowdfunding services



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.

EUGBR: Uniform requirements to label bonds as green

A newly adopted regulation provides uniform requirements for bond issuers who wish to label their bonds as "European green bond" or "EuGB". On 23 October 2023, the Council of the European Union adopted the European Green Bond Regulation (EuGBR), which intends to foster consistency and comparability in the green bond market by introducing disclosure requirements and a supervisory framework. The [EuGB](#) is a voluntary standard.

To ensure full transparency on the allocation of proceeds and the environmental impact of [EuGBs](#), issuers are obliged to publish a prospectus under the [EU Prospectus Regulation](#), pre-issuance fact sheets, and post-issuance annual reports on the allocation of proceeds. After all net proceeds have been allocated, the [EuGBR](#) requires issuers to publish an impact report.

The regulation provides a "flexibility pocket": Up to 15 percent of the bond's proceeds may be allocated to economic activities for which technical screening criteria under the EU Taxonomy do not yet exist. However, these activities need to fulfill the other requirements of the [EU Taxonomy Regulation](#), namely, to contribute to one of its objectives, not to significantly harm any of the objectives, and not to have a negative social impact.

Furthermore, companies intending to issue [EuGBs](#), must engage in a general green transition and show how these investments enrich the company's transition plan. The [EuGBR](#) also specifies that external reviewers are responsible for assessing the issuers' disclosures regarding the requirements of the regulation. These reviewers will be registered with and supervised by the European Securities Market Authority.

An optional disclosure regime, the so-called "[EuGB-lite](#)", offers issuers the opportunity to provide voluntary disclosure for green bonds that are not yet able to adhere to all the strict standards of the [EuGB](#).

Next, the [EuGBR](#) will be signed and published in the EU's Official Journal before entering into force 20 days later. The regulation will start applying 12 months after its entry into force.

CRR/IFR: ESG factors included in capital requirements

The European Banking Authority (EBA) recommends actions to support the transition to a more sustainable economy while ensuring that the banking sector remains resilient. On 12 October 2023, the [EBA](#) published a [report](#) on the inclusion of environmental and social risks into the prudential framework for credit institutions and investment firms. Under the [Capital Requirements Regulation](#) (CRR) and the [Investment Firms Regulation](#) (IFR), the [EBA](#) is mandated to assess whether a dedicated prudential treatment of exposures related to environmental and/or social objectives and impacts would be justified.

The report provides various recommendations regarding capital requirements (Pillar 1 under Basel III) that can be implemented in the short term. In particular, the [EBA](#) recommends that institutions consider environmental risks in the prudent valuation of immovable property collateral and identify whether environmental and social aspects may trigger operational risk losses. Furthermore, institutions should include environmental risks as part of their stress testing programs when employing an internal ratings-based (IRB) or internal model approach (IMA) under the Fundamental Review of the Trading Book (FRTB).

Concerning credit rating agencies, the report states that they should integrate environmental/social factors as drivers of credit risk into their (external) credit assessments. Competent authorities are encouraged to integrate environmental/social aspects into their due diligence requirements. In the short term, the [EBA](#) plans to develop exposure-based metrics for environment-related concentration risks.

In the medium to long term, the report recommends that institutions consider environmental and social risks in Probability of Default (PD) and Loss Given Default (LGD) estimates. Competent authorities should assess how ESG-linked products are treated in relation to the risk-residual add-on and in the internal risk measurement model. The [EBA](#) will assess how scenario analyses could be used to enhance the forward-looking elements of the prudential framework and whether to revise the [IRB](#) supervisory formula and the corresponding standardized approach for credit risk to better reflect environmental risk elements. In addition, the [EBA](#) will consider the possible implementation of environment-related concentration risk metrics and the introduction of these risks under the Pillar 1 framework.

The report underlines the importance of transition plans as further risk-based enhancements to the Pillar 1 framework. There is a need for appropriate risk differentiation between firms that are adapting successfully to the transition, and others that are exposed to greater risks due to the change process. As explained in more detail in [Policy Letter No. 100](#), climate-related rules need to be stable over time, credible in implementation, and predictable in evolution to accurately define a firm's transition risk, consequently allowing the firm to reduce this risk.

ESPCR: New disclosure requirements for crowdfunding services

New rules specify factors and information that crowdfunding service providers need to consider and disclose. On 29 September 2023, the European Commission adopted its Delegated Regulation on [regulatory technical standards](#) regarding requirements on credit scoring of crowdfunding projects, pricing of crowdfunding offers, and risk management policies and procedures under the [European Crowdfunding Service Providers for Business Regulation \(ECSPR\)](#).

The technical standards require crowdfunding service providers to

- inform investors of the methods used to calculate the credit score for crowdfunding projects and suggest the price for crowdfunding offers,
- ensure fair and appropriate pricing of the loans they facilitate on their platforms, i.e., a price that reflects the risk profile and net value of the loan,
- carry out a reliable assessment of the credit risk based on sufficient information as minimum protection for investors,
- conduct a loan valuation at different points in the life cycle of the loan,
- use credit assessment methods that are proportionate to the size, type, and maturity of the loan and to the characteristics of the project owner,
- and have governance arrangements in place that support information disclosure to investors, credit risk assessment and loan valuation, and the risk management framework.

This Commission Delegated Regulation enters into force twenty days after publication in the Official Journal of the European Union.

Public consultations

- **European Commission (EC):** [public consultation](#) on the Reporting reduction package - amendments to the ESA, ESRB and InvestEU Regulations. The deadline is 22 December 2023.
- **EC:** [public consultation](#) on the postponement of deadlines within the Accounting Directive for the adoption of certain ESRS. The deadline is 19 December 2023.
- **EC:** [public consultation](#) on the Benchmarks Regulation – review of the scope and regime for non-EU benchmarks. The deadline is 22 December 2023.
- **European Banking Authority (EBA):** [public consultation](#) on EBA Draft Guidelines on the minimum content of the governance arrangements for issuers of asset-referenced tokens. The deadline is 22 January 2024.
- **EBA:** [public consultation](#) on Draft Regulatory Technical Standards regarding the minimum content of the governance arrangements on the remuneration policy under the Markets in Crypto-Assets Regulation (MiCAR). The deadline is 22 January 2024.
- **EBA:** [public consultation](#) on Draft Regulatory Technical Standards on the approval process for white papers for ARTs issued by credit institutions under the Markets in Crypto-Assets Regulation (MiCAR). The deadline is 22 January 2024.
- **European Securities and Markets Authority (ESMA):** [public consultation](#) on Draft Technical advice to the European Commission on fees charged to Tier 1 Third-Country CCPs under EMIR. The deadline is 10 November 2023.
- **ESMA:** [call for evidence](#) on shortening the settlement cycle. The deadline is 15 December 2023.
- **ESMA:** [public consultation](#) on Technical Standards specifying certain requirements of Markets in Crypto Assets Regulation (MiCA) - second consultation paper. The deadline is 14 December 2023.
- **ESMA and EBA:** [public consultation](#) on joint EBA and ESMA Guidelines on the suitability assessment under MiCA. The deadline is 22 January 2024.
- **European Insurance and Occupational Pensions Authority (EIOPA):** [public consultation](#) on the supervision of captive (re)insurance undertakings. The deadline is 5 January 2024.



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