Leibniz Institute for Financial Research SAFE

SAFE Finance Blog

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The SAFE Regulatory Radar in November

Recommendations on green finance in asset management, new rules for crowdfunding service providers and bank resolution and technical standards for a European Capital Markets Union

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.

Green Finance: IOSCO provides guidance on sustainability-related issues

On 2 November 2021, the International Organization of Securities Commissions (IOSCO) published a final report with recommendations on sustainability-related practices, policies, procedures, and disclosure in asset management. The report addresses the challenges associated with the growth of environmental, social, and governance (ESG) investing and sustainability-related products.

First, the IOSCO recommends security regulators and policymakers set regulatory expectations in the areas of developing and implementation of practices, policies, and procedures regarding material sustainability-related risks and opportunities as well as related disclosure. Second, the IOSCO finds it necessary to expand existing regulatory requirements for product-level disclosure. Third, the regulators should have enough supervisory tools to monitor and assess whether asset managers and sustainability-related products comply with regulatory requirement enforcement tools to address breaches of these requirements. Forth, to preserve coherency throughout the global asset management industry, there is a need to create common sustainable finance-related terms and definitions. Fifth, the IOSCO encourages regulators to enhance sustainability-related initiatives.

The report also considers the risks of greenwashing. To prevent them, the IOSCO recommends developing requirements for the disclosure of material risk for sustainability-related products and special guidance on the naming for sustainability-related products.

Although the recommendations are not binding, they show regulators and policymakers which aspects should be considered when developing sustainability-related rules.

Crowdfunding: EBA issues rules on individual portfolio management of loans offered by crowdfunding service providers

On 9 November 2021, the European Banking Authority (EBA) published its draft regulatory technical standards (RTS) on the information that crowdfunding service providers offering individual portfolio management of loans shall provide to investors concerning the method to assess credit risk under the European Crowdfunding Service Providers Regulation (ECSPR).

The RTS strive to eliminate information gaps between project owners and investors and to ensure a sound prudential and disclosure framework for crowdfunding service providers.

The standards specify which elements must be included in the description of the method used for the assessment of credit risk of individual crowdfunding projects, individual portfolios, and project owners. The RTS also provide a list of information of each loan included in a certain portfolio that must be disclosed by crowdfunding platforms. Further, the RTS clarify procedures on contingency funds which may be set up to provide investors some compensation in the event of a default by a borrower.

The RTS are submitted to the Commission for endorsement. After formal adoption, they will be binding in all member states.

Bank resolution: revised guidelines on recovery plan indicators

On 9 November 2021, the EBA issued guidelines on recovery plan indicators under the Bank Recovery and Resolution Directive (BRRD). In 2015, the EBA published guidelines on the minimum list of quantitative and qualitative indicators for recovery planning. However, the practical experience has indicated a need to provide additional guidance on several parts of the recovery plan indicator framework, including indicators' calibration, monitoring, and breaches notification. The revised guidelines should establish an effective harmonized approach for developing the framework of recovery plan indicators in the EU.

In detail, the guidelines add three additional recovery indicators to the minimum list of indicators: minimum requirement for own funds and eligible liabilities (MREL)/total loss-absorbing capacity (TLAC), asset encumbrance, and liquidity position. Contrarily, the cost of wholesale funding was removed from this list since it was often not applicable to institutions with a diversified funding profile. The guidelines also acknowledge the importance of regularly monitoring recovery indicators and timely notification of their breaches to supervisors, especially in a situation of crisis. Lastly, the EBA explains that, in the case of a systemic crisis, an automatic recalibration of recovery plan indicators is not allowed unless in duly justified cases after the consent of the competent authority.

The guidelines will apply from two months after their publication. At the same moment, the guidelines issued in 2015 will be repealed.

Capital Markets Union: technical standards on the appropriate risk weights and minimum LGD values

On 5 November 2021, the EBA published its final draft of Regulatory Technical Standards (RTS) on the types of factors and conditions to assess the appropriateness of risk weights and of minimum loss given default (LGD) values under the Capital Requirements Regulation (CRR2).

The RTS strive to support the national competent authorities (NCAs) when conducting their periodical assessments and to establish a coherent approach across the EU.

The standards specify that for the assessment of the appropriateness of the risk weights for institutions applying the standardized approach (SA), the loss experience and the loss expectation relating to exposures secured by the immovable property must be considered as key elements. For institutions applying the internal ratings-based (IRB) approach to retail exposures secured by immovable property, the RTS set out the conditions that the NCAs must examine when assessing the appropriateness of minimum loss given default (LGD) values that include the sources of systemic risks beyond economic downturn considerations and idiosyncratic risks.

The RTS were submitted to the Commission for endorsement in form of a binding delegated regulation.

Current public consultations:

- **EBA:** public consultation on Initial Margin Model Validation (IMMV) under the European Markets Infrastructure Regulation (EMIR). The deadline is Friday, 4 February 2022.
- **EBA:** public consultation on machine learning used in the context of IRB models to calculate regulatory capital for credit risk. The deadline is Friday, 11 February 2022.
- **European Securities and Markets Authority (ESMA):** public consultation on the Review of the clearing thresholds under EMIR. The deadline is Wednesday, 19 January 2022.
- **ESMA:** public consultation on the potential extension of the list of financial instruments eligible for investments by central counterparties (CCPs) under EMIR, including EU Money Market Funds (MMFs). The deadline is Monday, 24 January 2022.
- **ESMA:** public consultations on CCP resolution regime, including
  - resolution colleges;
  - the valuation of CCPs' assets and liabilities in resolution;
  - the safeguards for clients and indirect clients;
  - the content of resolution plans;
  - the valuation in termination of contracts; and
  - the application of the circumstances under which a CCP is deemed to be failing or likely to fail. The deadline is Monday, 24 January 2022.
- **EBA and ESMA:** public consultation on their guidelines on common procedures and methodologies for the supervisory review and evaluation process (SREP). The deadline is Friday, 18 February 2022.

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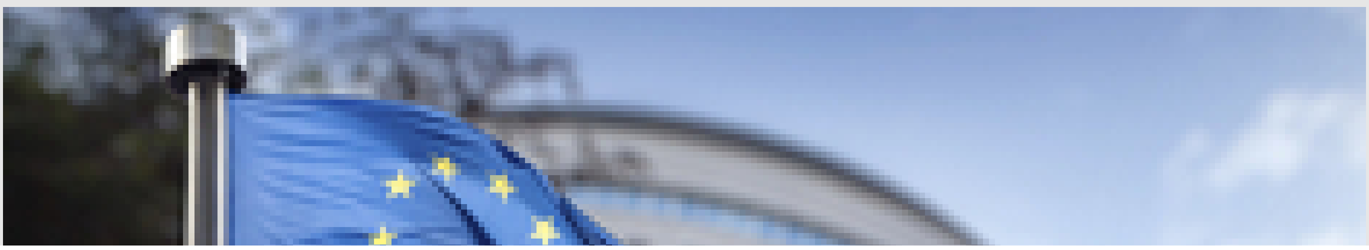

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