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The SAFE Regulatory Radar in January

New guidelines improving resolution planning, implementing standards for disclosures on ESG risks, and detailed rules for delaying public disclosure of inside information



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.*

Bank resolution: improving banks' resolvability and transferability

On 13 January 2022, the European Banking Authority (EBA) published its final guidelines for institutions and resolution authorities on [improving banks' resolvability](#) and its draft guidelines on [transferability](#).

From a regulatory perspective, it is essential to assess the resolvability to ensure the effective implementation of resolution strategy. The Resolvability Guidelines aim to strengthen the EU legal framework and to establish a consistent approach based on international standards and EU best practices on resolvability topics.

These guidelines set out the conditions for institutions or resolution groups which are resolvable. They specify what impediments should be identified when assessing resolvability and provide templates. In detail, the guidelines cover structure and operational continuity in resolution, access to financial market infrastructure, funding and liquidity in resolution, management information systems, bail-in execution, cross-border issues, business reorganization, and other issues.

These non-binding guidelines are addressed to both resolution authorities and institutions and will apply as of 1 January 2024. National authorities must notify the [EBA](#) whether they comply with these guidelines or provide the reasons for non-compliance not later than two months after the publication.

The draft transferability guidelines strive to complement the resolvability guidelines regarding resolution tools other than bail-in and tackle the feasibility and credibility of transfer strategies and implementation of transfer tools. The guidelines introduce the definition of the transfer perimeter based on the objectives of the transfer strategy and clarify the degree of separability within the institution and the obstacles to transferability of some elements. Further, the guidelines describe processes that should be in place to handle the transfer and its impacts as well as deal with management information system aspects. The [EBA](#) will prepare the final version of the guidelines after the consultation period ending on 15 April 2022.

Green finance: Pillar 3 disclosure rules on ESG risks

On 24 January 2022, the [EBA](#) published its [implementing technical standards](#) (ITS) on Pillar 3 disclosures on Environmental, Social, and Governance (ESG) risks.

The [ITS](#) aim to enhance the quality of the public disclosure and ensure that companies report comparable information on how [ESG](#)-related risks may exacerbate other risks in their balance sheets.

The [ITS](#) provide tables, templates, and associated instructions for qualitative and quantitative disclosures that specify the reporting requirement under the [Capital Requirements Regulation \(CRR\)](#) to disclose information on [ESG](#) risks, including transition and physical risk, addressed to large institutions with securities traded on a regulated market of EU member states. In particular, the [ITS](#) focus on quantitative information on climate-change-related risks, including transition and physical risks. Furthermore, institutions must report quantitative information on their actions to deal with climate-change-related risks, including the disclosure of a Green Asset Ratio (GAR) under the [Non-Financial Reporting Directive \(NFRD\)](#) and a Banking Book Taxonomy Alignment Ratio (BTAR) under the EU [Taxonomy Regulation](#).

These standards will be formally adopted in form of a binding Commission implementing regulation and will apply as of 28 June 2022.

Market abuse: guidelines on delayed disclosure under the Market Abuse Regulation

On 5 January 2022, the European Securities and Markets Authority (ESMA) published its [Final Report](#) containing guidelines on delayed disclosure in relation to prudential supervision. The guidelines follow the amendment of the [Market Abuse Regulation \(MAR\)](#) and expand the list of legitimate interests of issuers for delaying public disclosure of inside information.

The guidelines aim to increase legal certainty, foster supervisory convergence, and support issuers to assess whether they meet the conditions to delay inside information in accordance with the [MAR](#).

The guidelines deal with the institution-specific Supervisory Review and Evaluation Process (SREP) decisions of competent authorities, with reference to the Pillar 2 Capital Requirements (P2R) and Capital Guidance (P2G) and provide clarifications on a case-by-case basis. Among others, the [ESMA](#) explains that in case of redemptions, reductions, and repurchases of own funds subject to supervisory authorization, the institutions have a legitimate interest to delay the disclosure of inside information until the competent authority has authorized the transactions.

These non-binding guidelines will be applicable two months after the publication of translations. The national authorities must inform the [ESMA](#) whether they comply with them in the same period.

Current public consultations:

- **European Securities and Markets Authority (ESMA):** public [consultation](#) on the use of distributed ledger technology (DLT) for trading and settlement and on the need for amending the regulatory technical standards (RTS) on regulatory reporting and transparency requirements. The deadline is Friday, 4 March 2022.
- **European Banking Authority (EBA):** public [consultation](#) on the amendment of the Implementing Regulation for the 2023 benchmarking of internal approaches used in credit risk and market risk. The deadline is Friday, 18 February 2022.
- **EBA:** public [consultation](#) on its draft Regulatory Technical Standards (RTS) specifying and calibrating the minimum performance-related triggers for simple, transparent, and standardized (STS) on-balance-sheet securitizations that feature non-sequential amortization. The deadline is Monday, 28 February 2022.
- **EBA:** public [consultation](#) on its Guidelines on data collection exercises regarding high earners. The deadline is Monday, 21 March 2022.
- **EBA:** public [consultation](#) on draft Guidelines on remuneration and gender pay gap benchmarking exercise for banks and investment firms. The deadline is Monday, 21 March 2022.
- **EBA:** public [consultation](#) on transferability of parts of or a whole bank in the context of resolution to complement the resolvability assessment for transfer strategies. The deadline is Friday, 15 April 2022.
- **Financial Stability Board (FSB):** public [consultation](#) on funding and interconnectedness practices to aid resolution planning for insurers. The deadline is Tuesday, 15 March 2022.

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