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The SAFE Regulatory Radar in May

Proposed changes on disclosures for retail and insurance-based investment products, a tax incentive for equity, and harmonized rules for non-bank lending



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.*

Proposed amendments to improve PRIIPs disclosure and strengthen investor protection

On 3 May 2022, the three European Supervisory Authorities (ESAs), namely the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA), and the European Securities and Markets Authority (ESMA), published their joint technical advice to the European Commission on the review of the Regulation on packaged retail and insurance-based investment products (PRIIPs Regulation). The technical advice provides recommendations aiming to facilitate the transparency and simplicity of information provided to consumers and to allow for easier comparison between different investment products.

The Commission has mandated the ESAs to assess how to adapt the key information document (KID) in the context of the European Single Access Point's implementation, a platform designed to access all data on financial services that entities and competent authorities are required to make public. The details on the ESAP, which is the central part of the latest Capital Markets Union Review, were outlined in the [SAFE Regulatory Radar in December 2021](#).

The ESAs recommend taking advantage of digital disclosure opportunities and providing information in a layered format. The supervisors welcome more flexibility in the information presented in the KID, primarily in the performance section. The technical advice suggests different approaches for different types of products to ensure proper understanding by retail investors. Recommendations also include the introduction of a new section in KID to highlight sustainability goals.

Accordingly, ESMA issued a [final report](#) containing technical advice on certain aspects relating to retail investor protection under MiFID II on 29 April 2022. In its advice, ESMA requires a necessity of machine-readable disclosure documents to facilitate user-friendly searchable databases. The technical advice also proposes elaboration of an EU standard format for information on costs and charges and harmonization of information disclosure in line with MiFID and PRIIPsKID. In addition, ESMA highlighted the importance of properly dealing with misleading social media marketing campaigns and aggressive marketing communications.

Both documents with technical advice were submitted to the Commission and will serve as input for developing the [retail investment strategy](#) for the building of a coherent regulatory framework.

Commission proposes tax incentive for equity

On 11 May, the European Commission proposed a debt-equity bias reduction allowance (DEBRA). The proposal has two aims: to make European companies more resilient and to increase the accessibility of financing, particularly for start-ups and small and medium-size enterprises (SMEs). Increased equity would also facilitate investments in innovative technologies and support green and digital transitions. DEBRA is part of the [EU strategy on business taxation](#) which contributes to the [Capital Markets Union](#) and promotes the integration of national capital markets into a single market.

The proposal foresees an allowance that will grant equity the same tax treatment as debt. The allowance on equity is calculated by multiplying the allowance base with the relevant notional interest rate. In turn, the allowance base is equal to the difference between equity at the end of the tax year and equity at the end of the previous tax year which is the year-on-year increase in equity. The relevant notional interest rate is a sum of the currency-specific risk-free interest rate and a risk premium. The risk premium is set at one percent or 1.5 percent for [SMEs](#).

Next, the legislative proposal will be scrutinized by the Council and European Parliament.

EBA recommends improving the regulatory regime for non-bank lending

On 4 May 2022, [EBA](#) published a [report](#) on non-bank lending. The European Commission has mandated [EBA](#) to examine the current regulatory landscape for non-bank lending as a part of the [digital finance strategy](#).

The [EBA's](#) recommendations strive to address risks arising from the provision of lending by non-bank entities in the areas of supervision, consumer protection, anti-money laundering and countering the financing of terrorism (AML/CFT), macro and microprudential risks.

[EBA](#) emphasizes the necessity to overcome nationally fragmented non-bank regulatory regimes for lending to allow FinTech, BigTechs, and other non-traditional operators to develop successful business models and increase competition in the market.

First, [EBA](#) proposes to adapt the disclosure requirements for non-bank lending and to ensure the requirements are fair and effective as well as to strengthen the requirements for creditworthiness assessment. Second, the report recommends reviewing authorization and admission rules and to clarify the supervisory responsibilities in the cross-border provision of services. Third, the monitoring and reporting frameworks must be harmonized at the EU level to minimize macroprudential risks. Finally, [EBA](#) proposes to elaborate a mechanism to cover all non-bank lenders in the EU-wide [AML/CTF](#) framework.

The Commission will consider these recommendations and will prepare the necessary legislative proposals.

Current public consultations:

- **European Commission:** [public consultation](#) on retail investment and a new package of measures to increase consumer participation in capital markets. The deadline for responding to the call for evidence is Tuesday, 31 May 2022.
- **European Commission:** [public consultation](#) on the revised Payments Services Directive (PSD2) review and open finance. The deadline for comments on the consultation is Tuesday, 2 August 2022.
- **European Supervisory Authorities (ESAs):** [public consultation](#) seeking input on draft regulatory technical standards (RTS) on the content, methodologies and presentation of information in respect of the sustainability indicators for simple, transparent and standardized (STS) securitizations. The deadline is Saturday, 2 July 2022.
- **European Banking Authority (EBA):** [public consultation](#) on the role of environmental risks in the prudential framework for credit institutions and investment firms. The deadline is Tuesday, 2 August 2022.
- **EBA:** [public consultation](#) on the draft implementing technical standards (ITS) specifying the templates to be used by credit institutions for the provision of information to credit purchasers when selling or transferring non-performing loans (NPLs) for the purposes of financial due diligence and valuation of [NPLs](#). The deadline is Wednesday, 31 August 2022.
- **European Securities and Markets Authority (ESMA):** [consultation papers](#) on its proposed Guidelines for the EU central counterparty (CCP) resolution regime. The deadline is Monday, 1 August 2022.
- **ESMA:** [public consultation](#) on the information and templates to be provided, and used by firms, when they inform regulators of their cross-border marketing and management activities under the [UCITS](#) Directive and the [AIFMD](#). The deadline is Friday, 9 September 2022.
- **Financial Stability Board (FSB):** [public consultation](#) on the recommendations to assist supervisory authorities in developing their approaches to monitor, manage and mitigate cross-sectoral and system-wide risks arising from climate change and promote consistent approaches across sectors and jurisdictions. The deadline is Tuesday, 30 June 2022.

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